MONTANA LEGISLATIVE HISTORY

Chapter 535 19 75

Bill H _____ S 2 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	March	✓ C	Hearing Date(s)	Jan 10	✓ C
	March 12	✓ C		Jan 12	✓ C
		C			C
		C			C
Date Out	March 12	✓ C		Jan 12	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

SENATE BILL NO. 2

INTRODUCED BY ROSELL, REGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE CERTAIN STATUTES WHICH DISCRIMINATE ON THE BASIS OF SEX IN ORDER TO REMOVE THE DISCRIMINATION; AMENDING SECTIONS 11-802, 11-1821, 11-1911, 11-1915, 11-1927, 11-1928, 11-2025, 11-3112, 11-3215, 16-2702, 17-504, 17-807, 23-3405, 23-4727, 23-4728, 35-409, 39-108, 39-109, 39-113, 40-3312, 40-4902, 40-5305, 41-1119, 41-1506, 45-511, 45-603, 45-808, 59-519, 63-107, 63-402, 64-209, 67-903, 67-904, 67-1603, 71-120, 72-617, 72-618, 75-8701, 77-501, 77-1002, 80-1801, 80-1803, 84-301, 84-3206, 91-1304, 92-707, 92-1303, 92-1321, 93-2803, 93-2804, 93-2807, 93-2808, 93-2809, 93-4207, 93-4707, 93-5834, 93-5836, 93-6711, 93-9706, 93-100-2, 95-609, R.C.M. 1947; AND CREATING A NEW SECTION 12-216, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 11-802, R.C.M. 1947, is amended to read as follows:

"11-802. Powers of mayor. The mayor is the chief executive officer of the city or town, and has power:

1. To nominate, and, with the consent of the council, to appoint all nonelective officers of the city or town, provided for by the council, except as provided in this title.

2. To suspend, and, with the consent of the council, to remove any nonelective officer, stating in the suspension or removal the cause thereof.

3. To cause the ordinances of the city or town to be executed, and to supervise the discharge of official duty by all subordinate officers.

4. To communicate to the council, at the beginning of every session, and oftener if deemed necessary, a statement of the affairs of the city or town, with such recommendations as ~~he~~ the mayor may deem proper.

5. To recommend to the council such measures connected with the public health, cleanliness, and ornament of the city or town, and the improvement of the government and finances, as ~~he~~ the mayor deems expedient.

6. To approve all ordinances and resolutions of the council adopted by it, and, in case the same do not meet ~~his~~ the mayor's approbation, to return the same to the next regular meeting of the council, with ~~his~~ all objections in writing, and no ordinance or resolution so vetoed by the mayor must go into effect unless the same be afterwards passed by two-thirds vote of the whole number of members of the council.

7. To veto any objectionable part of a resolution or

INTRODUCED BILL

SB2

ordinance, and approve the other parts. If the mayor fail to return any resolution or ordinance as aforesaid, the same takes effect without further action.

8. To call special meetings of the council, and when so called ~~he~~ the mayor must state by message the object of the meeting, and the business of the meeting must be restricted to the object stated.

9. To cause to be presented, once in three months, a full and complete statement of the financial condition of the city or town.

10. To bid in for the city or town any property sold at a tax or judicial sale, where the city or town is a party or interested.

11. To procure and have in ~~his~~ the mayor's custody the seal of the city or town.

12. To take and administer oaths.

13. To call on every ~~male~~ citizen of the city or town, over the age of eighteen years, to aid in the enforcement of the laws and ordinances in case of riots; to call out the militia to aid ~~him~~ the mayor in suppressing the same or other disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the city, or for carrying into effect any law or ordinance; and any person who does not obey such call forfeits to the city or town a fine not exceeding twenty-five dollars.

14. To require of any of the officers of a city or town an exhibit of ~~his~~ such officer's books and papers.

15. To grant pardons and remit fines and forfeitures for offenses against city or town ordinances, when in ~~his~~ the mayor's judgment public justice would be thereby subserved; but ~~he~~ the mayor must report all pardons granted, with the reasons therefor, to the next council.

16. To perform such other duties as may be prescribed by law or by resolution or ordinance of the council.

17. ~~He--has~~ To exercise such power as may be vested in ~~him~~ the mayor by ordinance of the city or town, in and over all places within five miles of the boundaries of the city or town, for the purpose of enforcing the health and quarantine ordinances and regulations thereof."

Section 2. Section 11-1821, R.C.M. 1947, is amended to read as follows:

"11-1821. Payment of police reserves. (1) Whenever any policeman or officer shall from age or disability become transferred from the active list of the police officers of any city or town to the reserve list of the city or town, ~~he~~ such person shall thereafter be paid in monthly payments from the funds in this act provided for, a sum equal to one-half the base salary, excluding overtime and payments in lieu of sick leave and annual leave he was receiving as an active officer computed on the highest salary received in

any one month during the last year of active service; provided that after completing twenty (20) years or more of active service if a policeman or officer elects to serve an additional one (1) to ten (10) years then the payment from the police reserves fund shall be increased at the rate of one per cent (1%) per year of additional service up to a maximum of sixty per cent (60%) of the last year's average salary received as a monthly compensation for services as an active member of the police department.

(2) Upon the death of any policeman or any officer on the active list or reserve list of any city or town, ~~his~~ the surviving dependent ~~widow,--if--there--be--such--a--surviving widow~~ of the policeman or officer, shall, as long as ~~she remains--his--his--widow~~ such spouse does not remarry, be paid, from the police reserves' fund, a sum equal to one-half the base salary, excluding overtime and payments in lieu of sick leave and annual leave ~~he~~ the decedent was receiving as an active officer computed on the highest salary received in any one month during the last year of active service prior to the date of ~~his--demise~~ death or prior to the date the policeman or officer passes to the police reserve list. No surviving ~~widow~~ spouse shall be entitled to payments under the provisions of this act ~~if--she--be~~ who is fifteen (15) years younger than ~~her--husband~~ the deceased spouse, unless ~~she~~ he shall have been married to and living with ~~her~~

~~husband~~ the deceased spouse for ten (10) years immediately preceding his death. If the policeman or officer leaves a dependent minor child, or dependent minor children, then upon the death of the policeman or officer, providing ~~he leaves~~ there is no surviving ~~widow~~ spouse, or upon the death or remarriage of ~~his--widow~~ the surviving spouse, or if ~~his widow~~ the surviving spouse be fifteen (15) years younger than ~~her--husband~~ the decedent and shall not have been married to and living with ~~her--husband~~ the decedent for the ten (10) years immediately preceding his death, then his surviving dependent minor child, or dependent children, collectively, if there be more than one (1) dependent minor child, shall be paid the same monthly payments as are herein provided to be paid to the surviving ~~widow~~ spouse, until the minor child, or minor children, reach the age of eighteen (18) years or shall have married; provided further that the payments herein provided for to be made to the beneficiaries shall not be made if the payments require an increase in the millage tax levy provided by section 11-1823, R.C.M. 1947.

(3) Payments as herein provided for, to be made to the minor child or children of police officers shall be paid to the duly appointed, qualified and acting guardian of the child or children, for the use of the minor, until the minor shall have reached the age of eighteen (18) years or shall have married and in case there is more than one (1) minor

SB 2

child, upon each child reaching the age of eighteen (18) years the prorata payments to the child shall cease and shall be made to the remaining minor child or children until the youngest child reaches the age of eighteen (18) years or is married.

(4) The term "policeman," or "police officer," includes all those on the reserve list, as well as "active police," "police officer," and "patrolman," or any of those terms.

(5) Before any payments are made to any member of the police reserve, the governing body of the city shall, forthwith, determine the eligibility of such member for payments and the amount thereof in accordance with the terms of this section."

Section 3. Section 11-1911, R.C.M. 1947, is amended to read as follows:

"11-1911. Source of fund. The disability and pension fund of the fire department relief association of such city or town shall consist of all bequests, fees, gifts, emoluments or donations given or paid to such fund, or any of its members, except as otherwise designated by the donor, and a monthly fee which shall be paid into the fund by each paid member and part-paid member of said fire department relief association amounting to six per cent (6%) of ~~his~~ the member's regular monthly salary, the proceeds of a tax levy

as provided by section 11-1912, R.C.M. 1947, and all moneys received from the state of Montana as provided for by section 11-1919, R.C.M. 1947, and the interest of any portion of such fund.

Any such paid or part-paid fireman shall be entitled to a return, in lump sum, without interest, of all monthly contributions made by ~~him~~ the fireman to such funds, within sixty (60) days of ~~his~~ permanent separation from service in the fire department of such city, town or municipality, except for separation by reason of retirement, death or disability, which would otherwise qualify such separated fireman, ~~his--widow~~ the surviving spouse or orphans, to benefits or allowances from such fire department relief association."

Section 4. Section 11-1915, R.C.M. 1947, is amended to read as follows:

"11-1915. Benefits, allowed for, how allowed, and how paid. Every fire department relief association may allow to its members benefits for the following causes, as provided by law.

1. A service pension to a member who, by reason of service, has become entitled to a service pension.

2. To a member who has become maimed or disabled for life in line of duty.

3. To a member who has suffered injury in line of

duty.

4. To a member who has contracted sickness in line of duty.

5. Funeral expenses of a member.

6. Pensions to the ~~widow~~ surviving spouse, orphan or orphans of a deceased member.

All applications for relief shall be referred to the board of trustees. All claims shall be referred to the board of trustees for allowance or disallowance and claimant shall have the right to appeal to the association in the event ~~his~~ the claim be disallowed. All claims shall be paid by warrant, duly authorized, drawn by the secretary, and countersigned by the president of the association, and on presentation thereof, the treasurer of the association shall pay the same out of the said pension and disability fund."

Section 5. Section 11-1927, R.C.M. 1947, is amended to read as follows:

"11-1927. Pensions to ~~widows~~ surviving spouses and orphans. Each and every fire department relief association, organized and existing under the laws of this state, shall pay to the ~~widow~~ surviving spouse or orphans of a deceased member of said association, who, on the date of ~~his--decease~~ death, was an active member of the fire department in the city or town wherein such association has been formed, or had elected to retire from active service of said fire

department and receive a "service pension" as provided for by section 11-1925, or prior to ~~his--decease~~ death had suffered a sickness or injury, and was receiving or was qualified to receive a "disability pension," as provided by section 11-1926, out of any money in relief association's "disability and pension fund," a monthly pension in an amount which shall be equal to one-half (1/2) of the monthly compensation last received by such deceased member for ~~his~~ services rendered as an active member of the fire department in the city or town wherein such association has been formed. However, effective July 1, 1963, and after completing twenty (20) years or more of active service and attaining the age of fifty (50) years, a member elects to serve an additional one (1) to ten (10) years, then the pension shall be increased at the rate of one per cent (1%) per year of such additional service, up to a maximum of sixty per cent (60%) of the last month's salary received as a monthly compensation for his services as an active member of said fire department. However, the monthly compensation paid to a ~~widow~~ surviving spouse or orphan of an active member who becomes deceased after July 1, 1973, or an active member who elects to retire after July 1, 1973, shall in no event become less than one-half (1/2) the regular monthly salary paid to a confirmed active fireman of that city as provided each and every year in the annual budget of that

SB 2

city. Provided, that said pension shall be paid to the within named ~~widow~~ surviving spouse only so long as ~~she~~ such spouse remains unmarried, and further provided, that a ~~widow~~ surviving spouse of a deceased fireman shall not be entitled to the pension, provided for by this act, in those cases where the marriage was consummated after the fireman had elected to retire from active service and received a "service pension" as provided for by section 11-1925; or in those cases where the marriage was consummated after the fireman had qualified and was receiving a "disability pension" as provided for by section 11-1926. Provided further, that the pension herein provided for shall not be paid to the orphans of deceased firemen after they have attained the age of eighteen (18) years. In case of volunteer firemen such pension shall in no event exceed the sum of seventy-five ($75) dollars per month."

Section 6. Section 11-1928, R.C.M. 1947, is amended to read as follows:

"11-1928. Use of disability and pension fund of fire department relief association. Said fund shall not be used for any other purpose whatsoever, other than for the payment of the following:

1. A service pension to a member who, by reason of service, has become entitled to a service pension.

2. A pension to a member who has become permanently

maimed or disabled in line of duty.

3. A benefit or allowance to a member who has suffered a permanent disabling injury in line of duty.

4. A benefit or allowance to a member who has contracted a permanent disabling sickness in line of duty.

5. To defray the funeral expenses of a member, in an amount not to exceed, however, the sum of seven hundred fifty dollars ($750).

6. Payment to the ~~widow~~ surviving spouse, orphan or orphans of a deceased member as provided by law.

7. The payment of premiums upon a blanket policy of insurance covering the members of such fire department and providing for payment of compensation in case of death or injury to such member or any of them.

8. The return of employee contribution as provided by law.

9. All claims shall be paid by warrant duly authorized, drawn by the secretary, and countersigned by the president of the association and on presentation thereof, the treasurer shall pay the same out of the said disability and pension fund.".

Section 7. Section 11-2025, R.C.M. 1947, is amended to read as follows:

"11-2025. Payment of a claim -- beneficiaries of decedent. 1. Upon receipt of a claim under subparagraphs

one (1), two (2), three (3) and four (4), or any thereof, of section 11-2022, by the industrial accident board, if the same is found to be in compliance with the provisions of subsection one (1) of section 11-2024, the board must order the allowance thereof, and pay the same by warrants drawn upon the volunteer firemen's fund to the order of the attending physician or surgeon, attending nurse, and hospital.

2. All payments under the volunteer firemen's pension plan shall be approved by the public employees' retirement system and paid by warrants drawn upon the earmarked revenue fund, payable to the order of the individual qualified volunteer fireman; provided, however, that in the event of the death of any otherwise qualified volunteer fireman before reaching the age of fifty-five (55) years, or in the event of the death of any such volunteer fireman after ~~he has qualified~~ qualifying for payments hereunder but before ~~he has received~~ receiving payments hereunder totaling at least two thousand dollars ($2,000); and if such deceased volunteer fireman shall have left a ~~widow~~ surviving spouse, then such pension shall be paid or continue to be paid to ~~said widow~~ the surviving spouse by a warrant or warrants drawn upon the earmarked revenue fund and payable to the order of ~~said widow~~ the surviving spouse, until ~~her~~ such spouse's death or remarriage; or if said deceased volunteer

fireman shall have left no ~~widow~~ surviving spouse but shall have left a child or children under the age of eighteen (18) years, then such pension shall be paid or continue to be paid to the guardian or other person having custody of the said child or children, until the youngest child shall reach the age of eighteen (18) years. Provided, further, that in the event of such payments after the death of a volunteer fireman, to or for ~~his widow~~ a surviving spouse or children, then such pension shall terminate, and no further payments shall be made hereunder, when a total of two thousand dollars ($2,000) shall have been paid upon such pension, including any payments made to the volunteer fireman before his death. If such deceased volunteer fireman shall leave neither ~~widow~~ surviving spouse nor child under the age of eighteen (18) years, then his pension shall terminate at the end of the month prior to the month in which his death occurs."

Section 8. Section 11-3112, R.C.M. 1947, is amended to read as follows:

"11-3112. Nomination of candidates--primary election. (1) Candidates to be voted for at all general municipal elections at which a mayor or councilmen are to be elected under the provisions of this act shall be nominated by a primary election, and no other names shall be placed upon the general ballot except those selected in the manner

SB 2

hereinafter prescribed. The primary election for such nominations shall be held on the second Monday preceding the municipal election. The judges of election appointed for the municipal election shall be the judges of the primary election, and it shall be held at the same places, as far as possible, and the polls shall be opened and closed at the same hours, with the same clerks as are required for said general municipal election.

(2) Any qualified elector of said city who is the owner of any real estate situated therein, desiring to become a candidate for mayor or councilman, shall, at least ten days prior to said primary election, file with the city clerk a statement of such candidacy in substantially the following form:

State of Montana,

County of ....

I, ..., being first duly sworn, say that I reside at .... street, city of ...., county of .... state of Montana; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or councilman) to be voted upon at the primary election to be held on the .... Monday of ...., 19.., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(Signed) ....

Subscribed and sworn to (or affirmed) before me by .... on this .... day of ...., 19...

(Signed) ....

and shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

(3) Petition accompanying nominating statement.

The undersigned, duly qualified electors of the city of ...., and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed in the ballot as a candidate for nomination for (name of office) at the primary election to be held in such city on the .... Monday of ...., 19... We further state that we know him to be a qualified elector of said city and a man of good moral character, and qualified, in our judgment, for the duties of such office.

Names of qualifying electors. Number. Street.

.....

.....

(4) Each signer of a nomination paper shall sign but one such nomination paper for the same office, except where

more than one officer is to be elected to the same office, in which case he may sign as many nomination papers as there are officers to be elected, and only one candidate shall be petitioned for or nominated in tne same nomination paper.

(5) Immediately upon the expiration of the time of filing the statements and petitions for candidates, the said city clerk shall cause to be published for three consecutive days in all the daily newspapers published in the city, in proper form, the names of the persons as they are to appear upon the primary ballots, and if there be no daily newspaper, then in two issues of any other newspapers that may be published in said city; and the said clerk shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. Upon the said ballot the names of the candidates for mayor, arranged alphabetically, shall first be placed, with a square at the left of each name, and immediately below the words, "Vote for one." Following these names, likewise arranged in alphabetical order, shall appear the names of the candidates for councilmen, with a square at the left of each name, and below the names of such candidates shall appear the words, "Vote for (giving the number of persons to be voted for)." The ballot shall be printed upon plain substantial, white paper, and shall be headed:

Candidates for nomination for mayor and councilmen of

the city of .... at the

Primary Election;

but shall have no party designation or mark whatever. The ballots shall be in substantially the following form: (Place a cross in the square preceding the names of the parties you favor as candidates for the respective positions).

Official Primary Ballot.

Candidates for nomination for mayor and councilmen of the city of .... at the

Primary Election.

For Mayor.

(Name of candidate.)

(Vote for one.)

For councilman.

(Name of candidate.)

vote for .... (Giving number to be voted for).

Official ballot attest:

(Signature)....

City Clerk.

(6) Having caused said ballots to be printed, the said city clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of such voters registered in such polling place at the last general municipal election. The persons who are qualified to vote at the general election shall be qualified to vote at such

SB 2

primary election and any person offering to vote may be orally challenged by any elector of the city upon any or all of the grounds set forth and specified in section 23-1220 of these codes, and the provisions of sections 23-1221 to 23-1228, inclusive, of these codes shall apply to all challenges made at such election. Judges of election shall immediately upon the closing of the polls count the ballots and ascertain the number of votes cast in such precinct for each of the candidates for mayor and councilman, and make return thereof to the city clerk upon the proper blanks to be furnished by the city clerk within six hours of the closing of the polls. On the day following the primary election the city clerk shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers in said city, at least once, the result thereof. Said canvass by the city clerk shall be publicly made.

(7) If a mayor is to be elected at such municipal election, the two persons receiving the highest number of votes shall be the candidates for mayor. If one councilman is to be elected at such municipal election, the two persons receiving the highest number of votes shall be the candidates for councilmen. If two councilmen are to be elected at such general municipal election, the four persons receiving the highest number of votes shall be the

candidates for councilmen, and if three councilmen are to be elected at such municipal election, the six persons receiving the highest number of votes shall be the candidates for councilmen, and if four councilmen are to be elected at such general municipal election, the eight persons receiving the highest number of votes shall be candidates for councilmen at such general election, and these shall be the only candidates for mayor and councilmen at such general election.

(8) All electors of cities under this act, who, by ordinances governing cities incorporated under the general municipal incorporation law, or by charter, would be entitled to vote for the election of officers at any general municipal election in such cities, shall be qualified to vote at all elections under this act; and the ballots to be used at such general municipal election shall be in the same general form as for such primary elections so far as applicable, and in all elections in such cities the election precincts, voting places, method of conducting the elections, canvassing of votes, and announcing the results shall be the same as by law provided for the election of officers in such cities so far as the same are applicable and not inconsistent with the provisions of this act.

(9) Every person who has been declared elected mayor or councilman, shall, within ten days thereafter, take and

file with the city clerk ~~his~~ an oath of office in the form and manner provided by law, and shall execute and give sufficient bond to the municipal corporation in the sum of ten thousand dollars, conditioned for the faithful performance of the duties of ~~his~~ the office, which bond shall be approved by the judge of the district court of the county in which such city is situated, and filed with the clerk and recorder of the county in which such city is situated."

Section 9. Section 11-3215, R.C.M. 1947, is amended to read as follows:

"11-3215. Nomination of candidates--primary election. (1) Candidates to be voted for at all general municipal elections at which commissioners are to be elected under the provisions of this act shall be nominated by a primary election, and no other names shall be placed upon the general ballot except those nominated in the manner hereinafter prescribed. The primary election for such nominations shall be held on the last Tuesday of August of the odd-numbered years.

(2) Any qualified elector of the municipality, who is the owner of real estate situated therein to the value of not less than one thousand dollars, desiring to become a candidate for commissioner, shall, at least thirty-five (35) days prior to said primary election, file with the clerk of

the commission a statement of such candidacy in substantially the following form:

State of Montana,

County of ....

I,...., being first duly sworn, say that I reside at .... street, (city or town) of ...., county of ...., state of Montana; that I am a qualified voter therein; that I am a candidate for nomination to the office of commissioner to be voted upon at the primary election to be held on the last Tuesday of August, 19.., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(Signed) ....

Subscribed and sworn to (or affirmed) before me by .... on this .... day of ...., 19..

(Signed) ....

And shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

(3) Petition Accompanying Nominating Statement.

The undersigned duly qualified electors of the (city,

town) of...., and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination to the office of commissioner at the primary election to be held on the last Tuesday of August, 19... We further state that we know nim/her to be a qualified elector of said (city, town), and a ~~man~~ person of good moral character, and qualified, in our judgment, for the duties of such office, and we individually certify that we have not signed similar petitions greater in number than the number of commissioners to be chosen at the next general municipal election.

Names of Qualifying Electors Number Street

(Space for Signatures.)

State of Montana,

County of ....

...., being duly sworn, deposes and says, that he knows the qualifications and residence of each of the persons signing the appended petition, and that such signatures are genuine, and the signatures of the persons whose names they purport to be.

(Signed) ....

Subscribed and sworn to before me this .... day of ...., 19...

.... (Notary Public),

This petition, if found insufficient, shall be returned to .... at No. .... street, ..., Montana.

(4) Immediately upon the expiration of the time of filing the statements and petition for candidates, the clerk of the commission shall cause to be published for three consecutive days in all the daily newspapers published in the municipality in proper form, the names of the persons that are to appear upon the primary ballots, and if there be no daily newspaper, then in two issues of any other newspaper that may be published in said municipality, and the said clerk shall thereupon cause the primary ballots to be printed and authenticated with a facsimile of his signature.

(5) In the event the number of legally qualified candidates for the office of commissioner at such primary election does not exceed twice the number of vacancies in the commission to be filled, no municipal primary election for the nomination of candidates for the office of commissioner shall be held in said city for said year and such legally qualified candidates shall be deemed duly nominated and shall be placed on the general ballot."

Section 10. Section 16-2702, R.C.M. 1947, is amended to read as follows:

"16-2702. Duties of sheriff. The sheriff must:

1. Preserve the peace;

2. Arrest and take before the nearest magistrate, for examination, all persons who attempt to commit or have committed a public offense;

3. Prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his knowledge;

4. Perform duties of humane officer within ~~his~~ the county with reference to the protection of dumb animals;

5. Attend all courts, except justices and police courts, at their respective terms or sessions held within ~~his~~ the county, and obey their lawful orders and directions;

6. Command the aid of as many ~~male~~ inhabitants of his county as ~~he~~ may ~~think~~ be necessary in the execution of these duties;

7. Take charge of and keep the county jail and the prisoners therein;

8. Endorse upon all notices and process the year, month, day, hour, and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper, and time of reception;

9. Serve all process or notices in the manner prescribed by law;

10. Certify ~~under his hand~~ in writing upon the process of notices the manner and time of service, or, if he fails

to make service, the reasons of ~~his~~ this failure, and return the same without delay."

Section 11. Section 17-504, R.C.M. 1947, is amended to read as follows:

"17-504. Injuries inflicted in a duel -- support of family of injured person. If any person slays or permanently disables another person in a duel in this state, the slayer must provide for the maintenance of the ~~widow or wife~~ spouse of the person slain or permanently disabled, and for the minor children, in such manner and at such cost, either by aggregate compensation in damages to each, or by a monthly, quarterly, or annual allowance, to be determined by the court."

Section 12. Section 17-807, R.C.M. 1947, is amended to read as follows:

"17-807. What cannot be specifically enforced. The following obligations cannot be specifically enforced:

1. An obligation to render personal service, or to employ another therein;

2. An agreement to marry or live with another;

3. An agreement to submit a controversy to arbitration;

4. An agreement to perform an act which the party has not power to perform lawfully when required to do so;

5. An agreement to procure the act or consent of the

SB 2

~~wife~~ spouse of the contracting party, or of any other third person; or

6. An agreement, the terms of which are not sufficiently certain to make the precise act which is to be done clearly ascertainable."

Section 13. Section 23-3405, R.C.M. 1947, is amended to read as follows:

"23-3405. Organization of committee -- meeting -- county convention to elect delegates and alternates to state convention. (1) The committee shall meet prior to the state convention of its political party and organize by electing a chairman and one (1) or more vice-chairmen. The chairman ~~or~~ and first vice-chairman shall be ~~a woman~~ of opposite sex. They shall elect a secretary and other officers as are proper. It is not necessary for the officers to be precinct ~~committeemen~~ committeepersons.

(2) The committee may select managing or executive committees and authorize subcommittees to exercise any and all powers conferred upon the county, city, state, and congressional central committees by this act.

(3) The chairman of the county central committee shall call the central committee meeting and not less than four (4) days before the date of the central committee meeting shall publish the call in a newspaper published at the county seat and mail a copy of the call to each precinct

~~committeeman~~ committeeperson. If party rules permit the use of a proxy, no proxy shall be recognized unless held by an elector of the precinct of the ~~committeeman~~ committeeperson executing it.

(4) The county chairman of the party shall preside at the county convention. No person other than a duly elected or appointed ~~committeeman~~ committeeperson or officer of the committee is entitled to participate in the proceedings of the committee.

(5) If a ~~committeeman~~ committeeperson is absent, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent the precinct in the convention.

(6) The county convention shall elect delegates and alternate delegates to the state convention under rules of the state party. The chairman and secretary of the county convention shall issue and sign certificates of election of the delegates."

Section 14. Section 23-4727, R.C.M. 1947, is amended to read as follows:

"23-4727. Expenditure by or for candidate for office. No sums of money shall be paid, and no expenses authorized or incurred, by or on behalf of any candidate to be paid by ~~him~~ such candidate, except such as ~~he may pay~~ may be paid to the state for printing, as herein provided, in ~~his~~ a

campaign for nomination to any public office or position in this state, in excess of fifteen per cent of one year's compensation or salary of the office for which ~~he~~ the person is a candidate; provided, that no candidate shall be restricted to less than one hundred dollars in ~~his~~ a campaign for such nomination. No sums of money shall be paid, and no expenses authorized or incurred, contrary to the provisions of this act, for or on behalf of any candidate for nomination. For the purposes of this law, the contribution, expenditure, or liability of a descendant, ascendant, brother, sister, uncle, aunt, nephew, niece, ~~wife~~ spouse, partner, employer, employee, or fellow official or fellow employee of a corporation shall be deemed to be that of the candidate ~~himself~~."

Section 15. Section 23-4728, R.C.M. 1947, is amended to read as follows:

"23-4728. Limitation of expenditures by candidate -- by party organizations -- by relatives. No sums of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this state, except such as ~~he~~ the candidate may contribute towards payment for ~~his~~ the political party's or independent statement in the pamphlet herein provided for, to be paid by ~~him~~ such candidate in his campaign for election, in excess of ten per

cent of one year's salary or compensation of the office for which ~~he~~ the candidate is nominated; provided, that no candidate shall be restricted to less than one hundred dollars. No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any political party or organization to promote the success of the principles or candidates of such party or organization, contrary to the provisions of this act. For the purposes of this act, the contribution, expenditure, or liability of a descendant, ascendant, brother, sister, uncle, aunt, nephew, niece, ~~wife~~ spouse, partner, employer, employee, or fellow official or fellow employee of a corporation, shall be deemed to be that of the candidate ~~himself~~."

Section 16. Section 35-409, R.C.M. 1947, is amended to read as follows:

"35-409. Definitions. The following terms, whenever used or referred to in this act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Local agency" means any county, city, town, school district, or housing authority of the state.

(2) "Housing" means any temporary war or veterans' housing acquired from the United States of America under the terms and provisions of the Housing Act of 1950, being Title II, Chapter 94, Public Law 475, of the laws of the

SB 2

Eighty-first Congress, Second Session, for the purpose of providing temporary housing for veterans and for families of servicemen, located within the boundaries of any local agency.

(3) "Veterans" includes, in so far as permitted by federal law, any person who has served in the military or naval forces of the United States and has been discharged or released therefrom under conditions other than dishonorable.

(4) "Families of servicemen" includes, in so far as permitted by federal law, the families of any person who is serving in the military or naval forces of the United States, and the unmarried ~~widow~~ surviving spouse of a deceased veteran.

(5) "Families" is limited to the spouse and legal dependents who are members of the household."

Section 17. Section 39-108, R.C.M. 1947, is amended to read as follows:

"39-108. Acknowledgment by married ~~women~~ persons. The acknowledgment of a married ~~woman~~ person to an instrument purporting to be executed by ~~her~~ such person must be taken the same as that of any other person."

Section 18. Section 39-109, R.C.M. 1947, is amended to read as follows:

"39-109. Conveyance by married ~~woman~~ person -- acknowledgment. A conveyance by a married ~~woman~~ person has

the same effect as if ~~she~~ such person were unmarried, and may be acknowledged in the same manner."

Section 19. Section 39-113, R.C.M. 1947, is amended to read as follows:

"39-113. Form of certificate of acknowledgment by married ~~woman~~ person. The certificate of acknowledgment by a married ~~woman~~ person must be substantially in the form prescribed in section 39-111."

Section 20. Section 40-3312, R.C.M. 1947, is amended to read as follows:

"40-3312. Application for license. (1) Application for an agent or solicitor license shall be made to the commissioner by the applicant, and be signed and sworn to by the applicant before a notary public or other person authorized by law to take acknowledgments of deeds.

(2) The commissioner shall designate and prepare forms for application for license which shall require full answers to such questions as may reasonably be necessary to determine the applicant's identity, residence, personal history, business record, experience and training in insurance, purpose for which the license is to be used and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

(3) If for an agent's license, the application shall

state the kinds of insurance proposed to be transacted, and be accompanied by written appointment of the applicant as agent by an authorized insurer, subject to issuance of the license.

(4) If for a solicitor's license, the application shall be accompanied by written appointment of applicant as solicitor by a licensed agent, subject to issuance of the license.

(5) If the applicant for an agent license is a firm or corporation, the application shall show, in addition, the names of all members, officers and directors, and shall designate each individual who is to exercise the powers to be conferred by the license upon the firm or corporation. Each such individual so designated shall furnish information as to himself, as part of the application, as though for an individual license.

(6) If the applicant for an agent license is an agents' association pursuant to section 40-3311, the application shall show the names and residence addresses of the association's officers and trustees.

(7) If for license as either agent or solicitor, the application shall also show whether applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any such license was ever refused, suspended or revoked; whether any insurer, general

agent or agent (in the case of a solicitor application) claims applicant to be indebted to it, and if so the details thereof and the defenses, if any, of the applicant thereto; whether applicant ever had an agency contract canceled, and the facts thereof; and if applicant is a married~~,~~ ~~woman,~~ like information with respect to ~~her husband~~ the applicant's spouse.

(8) The commissioner shall require as part of the application for license the certificate of an officer or representative of the insurer proposed to be represented (in the case of applicants for license as agent), or of the proposed employing agent (in the case of applicants for license as solicitor) as to whether the applicant is known to ~~him~~ such officer or representative, whether the insurer or agent has investigated the character and business record of the applicant and the uses to be made of the license, if granted, and his opinion, based on such investigation, as to applicant's trustworthiness and competence and whether the applicant will use the license principally for the purpose of insuring ~~his~~ the applicant's own risks or interests and those of ~~his~~ the applicant's relatives or employer.

(9) All such applications shall be accompanied by the applicable license fee, appointment of agent fee where applicable, examination fee where required under section 40-3313, all in the respective amounts stated in section

SB 2

40-2726 (fees and licenses)."

Section 21. Section 40-4902, R.C.M. 1947, is amended to read as follows:

"40-4902. "Benevolent association" defined. (1) Any corporation, association or society, or by whatever name called, which issues any certificate, policy, membership agreement, or makes any promise or agreement with its members, whereby, upon decease of a member, any money or other benefit, charity, aid or relief is to be paid, provided or rendered by such corporation, association or society to his legal representatives, or to the beneficiary designated by him, which money, benefit, charity, aid or relief is derived from voluntary donations, or from admission fees, dues or assessments, or any of them collected or to be collected from the members thereof, or members of a class therein, or interest or accretions thereon, or accumulations thereof; and wherein the money or other benefit, charity, aid or relief, so realized, is applied to or accumulated for the uses and purposes herein specified, and/or the uses of such corporation, association or society, and/or the expenses of management and prosecution of its business, shall be deemed to be a "benevolent association" for the purposes of this chapter.

(2) The definition of benevolent association in subsection (1) above is not applicable to:

(a) Burial or death benefits, annuities, endowments or any other benefit payments of any legal reserve life or disability insurer, or of any labor union, railroad brotherhood, or lodge having as a primary business the improvement of working conditions; or

(b) Any ~~ladies~~ auxiliaries to any labor union, railroad brotherhood or lodge referred to in subdivision (a) above; or

(c) The benevolent plans within fraternal orders if limited to members and if the plan is not the principal object for the formation or continuance of the fraternal order."

Section 22. Section 40-5305, R.C.M. 1947, is amended to read as follows:

"40-5305. Exempted societies. (1) Nothing contained in this chapter shall be so construed as to affect or apply to:

(a) Grand or subordinate lodges of societies, orders or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

(b) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, and the ~~ladies' societies or ladies'~~ auxiliaries to such orders, societies or associations;

(c) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars ($400) or disability benefits of not more than three hundred fifty dollars ($350) to any person in any one year, or both; or

(d) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars ($400) or for disability benefits of not more than three hundred fifty dollars ($350) to any one person in any one year, or both.

(2) Any such society or association described in clauses (c) or (d), above, which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph (d) which has more than one thousand (1,000) members, shall not be exempted from the provisions of this chapter but shall comply with all requirements thereof.

(3) No society which, by the provisions of this section, is exempt from the requirements of this chapter, except any society described in paragraph (b), above, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

(4) Every society which provides for benefits in case

of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this chapter except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

(5) The commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this chapter.

(6) Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this state."

Section 23. Section 41-1119, R.C.M. 1947, is amended to read as follows:

"41-1119. Seats for ~~female~~ employees. Every employer in any manufacturing, mechanical, or mercantile establishment, laundry, hotel, or restaurant, or other establishment employing any ~~female~~ person, shall provide suitable seats for all ~~female~~ employees and shall permit them to use such seats when they are not employed in the active duties of their employment."

Section 24. Section 41-1506, R.C.M. 1947, is amended to read as follows:

SB 2

"41-1506. ~~Wife~~ Spouse must join in assignment of wages -- acknowledgment. No assignments of ~~his~~ wages or salary to a wage broker by a married ~~man~~ person, who shall have a ~~wife~~ spouse residing in this state, shall be valid or enforceable without the consent of ~~his wife~~ such spouse, evidenced by ~~her~~ the spouse's signature to said assignment, executed and acknowledged before a notary public or other officer empowered to take acknowledgments, and no wage broker or person connected with ~~him~~ a wage broker, directly or indirectly, shall be authorized to take any such acknowledgments."

Section 25. Section 45-511, R.C.M. 1947, is amended to read as follows:

"45-511. Who deemed owners. Every person, including guardians of minors, married ~~women~~ persons, and any company, association, or corporation not tenants or lessees, for whose use, benefit, or enjoyment any property, building, structure, or improvement mentioned in this chapter is constructed, repaired, or altered, is deemed the owner thereof for the purposes of this chapter."

Section 26. Section 45-603, R.C.M. 1947, is amended to read as follows:

"45-603. Priority of wages in case of death of employer. In case of the death of any employer, the wages of each miner, mechanic, ~~salesman~~ salesperson, clerk, servant,

and laborer for services rendered within four (4) months next preceding the death of the employer, in the amount actually owed, rank in priority next after the funeral expenses, expenses of the last sickness, the charges and expenses of administering upon the estate, and the allowance to the ~~widow~~ surviving spouse and infant children, and must be paid before other claims against the estate of the deceased person."

Section 27. Section 45-808, R.C.M. 1947, is amended to read as follows:

"45-808. Owner defined. Every person, including guardians or minors, married ~~women~~ persons, and any company, firm, association, or corporation for whose use or benefit the grain or other crops mentioned herein are threshed, or the services rendered or labor performed, is deemed the owner thereof for the purposes herein mentioned."

Section 28. Section 59-519, R.C.M. 1947, is amended to read as follows:

"59-519. Appointment of relative to office of trust or emolument unlawful. It shall be unlawful for any person or any member of any board, bureau or commission, or employee at the head of any department of this state or any political subdivision thereof to appoint to any position of trust or emolument any person ~~or persons~~ related ~~to him or them~~ or connected ~~with him or them~~ by consanguinity within the

fourth degree, or by affinity within the second degree; except that the provisions of this section shall not apply to sheriffs in the appointment of ~~females~~ persons as cooks and/or ~~matrons~~ attendants. It shall further be unlawful for any person or any member of any board, bureau or commission, or employee of any department of this state, or any political subdivision thereof to enter into any agreement or any promise with other persons or any members of any boards, bureaus or commissions, or employees of any department of this state or any of its political subdivisions thereof to appoint to any position of trust or emolument any person or persons related to them or connected with them by consanguinity within the fourth degree, or by affinity within the second degree."

Section 29. Section 63-107, R.C.M. 1947, is amended to read as follows:

"63-107. Rules for determining the existence of a partnership. In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by section 63-208 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership,

whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that ~~he~~ such person is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

(a) As a debt by installments or otherwise,

(b) As wages of an employee or rent to a landlord,

(c) As an annuity to a ~~widow~~ surviving spouse or representative of a deceased partner,

(d) As interest on a loan, though the amount of payment vary with the profits of the business,

(e) As the consideration for the sale of a good will of a business or other property by installments or otherwise."

Section 30. Section 63-402, R.C.M. 1947, is amended to read as follows:

"63-402. Nature of a partner's right in specific partnership property. (1) A partner is co-owner with ~~his~~ the other partners of specific partnership property holding as a tenant in partnership.

SB 2

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this act and to any agreement between the partners, has an equal right with ~~his~~ the other partners to possess specific partnership property for partnership purposes~~,~~ but ~~he~~ has no right to possess such property for any other purpose without the consent of ~~his~~ the other partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner, ~~his~~ that partner's right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, ~~when--his~~ in which case such deceased partner's right in such property vests in ~~his~~ the deceased's legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to ~~dower, courtesy,~~ the surviving spouse's elective share or allowances to ~~widows~~ surviving spouses, heirs, or next of kin."

Section 31. Section 64-209, R.C.M. 1947, is amended to read as follows:

"64-209. Protection of personal relations. The rights of personal relations forbid:

1. The abduction ~~of a husband from his wife, or~~ of a parent from ~~his~~ a child;

2. The abduction or enticement of a wife from her husband or a husband from his wife, of a child from a parent or from a guardian entitled to its custody, or of a servant from ~~his~~ a master;

3. The seduction of a ~~wife~~ spouse, ~~daughter~~ child, orphan, ~~sister,~~ or servant;

4. Any injury to a servant which affects ~~his~~ the servant's ability to serve ~~his~~ the master."

Section 32. Section 67-903, R.C.M. 1947, is amended to read as follows:

"67-903. Married ~~women;~~ persons. A married ~~woman~~ person may execute a power during ~~her~~ marriage, without the concurrence of ~~her--husband~~ the spouse, unless otherwise prescribed by the terms of the power."

Section 33. Section 67-904, R.C.M. 1947, is amended to

read as follows:

"67-904. Married ~~women:~~ persons. No power can be executed by a married woman before she attains her majority which could not be executed by a married man before he attains his majority.

Section 34. Section 67-1603, R.C.M. 1947, is amended to read as follows:

"67-1603. Grant by married ~~woman~~ person -- now acknowledged. No estate in the real property of a married ~~woman~~ person passes by any grant purporting to be executed or acknowledged by ~~her~~ such person, unless the grant or instrument is acknowledged by ~~her~~ the grantor in the manner prescribed by sections 39-108 and 39-113."

Section 35. Section 71-120, R.C.M. 1947, is amended to read as follows:

"71-120. Burial of deceased military service men and women. (1) It shall be the duty of the board of commissioners of each county in this state to designate some proper person in the county, who shall be known as veterans' burial supervisor, preferably an honorably discharged service man or woman, whose duty it shall be to cause to be decently interred the body of any honorably discharged service man or woman, who shall have served in any branch of the armed services of the United States and who may hereafter die or any service man or woman who died while in

service during any declared or undeclared war, or ~~female~~ resident of the Montana veterans' home, who may hereafter die. Such burial shall not be made in any burial grounds or cemetery, or in any portion of any burial grounds or cemetery, used exclusively for the burial of pauper dead.

(2) The expense of burial shall be two hundred fifty dollars ($250), to be paid by the county commissioners of the county in which the deceased was an actual bona fide resident at the time of death.

(3) The benefits hereof shall not be available in the case of any decedent whose executor, administrator or heirs waive the benefits.

(4) That the expense of each burial of a ~~female~~ resident of the Montana veterans' home, shall not exceed the sum of two hundred fifty dollars ($250), to be paid by the county commissioners of the county in which the deceased person resided prior to ~~her~~ admittance to the Montana veterans' home.

(5) In the event any such honorably discharged person, male or female, who shall have served in the armed services of the United States, and who is a resident of the state of Montana, shall die while temporarily absent from the state or county of ~~his~~ residence, then the provisions of this act shall apply, and the burial expenses not exceeding the amount herein specified shall be paid in the same manner as

SB 2

above provided.

(6) Whenever any such honorably discharged person, male or female hereinbefore described shall die at any public institution of the state of Montana, other than the state veterans' home, and burial for any cause shall not be made in the county of the former residence of the deceased, the officers of said state institution, as aforesaid, shall provide the proper burial herein prescribed except that the expense of each burial shall not exceed the sum herein allowed, which expense shall be paid by the county in which the decedent resided at the time of entry into such institution, but no such burial shall be covered by any special or standing contract whereby the cost of burial is reduced below the maximum hereinbefore fixed, to the disparagement of proper interment."

Section 36. Section 72-617, R.C.M. 1947, is amended to read as follows:

"72-617. Persons to whom free transportation may be issued. The persons to whom free tickets, free passes, free transportation, and discriminating reduced rates may be issued, furnished, or given are the following, to wit: (a) The officers, agents, employees, attorneys, physicians, and surgeons of such common carriers of passengers; (b) to the families of the persons included in subdivision "a" hereof; (c) the general officers of any such common carriers; (d)

employees of sleeping car and express car companies, and linemen of telegraph and telephone companies, railway mail service employees, post-office inspectors, customs inspectors, and immigration inspectors, newsboys and newsgirls on trains, baggage agents; (e) persons injured in wrecks, and physicians and nurses attending such persons; (f) passengers traveling with the object of providing relief in cases of railroad accident, general epidemic, pestilence, or other calamitous visitation; (g) necessary caretakers of livestock, vegetables, and fruit, including return transportation to forwarding stations; (h) the officers, agents, or regularly accredited representatives of labor organizations composed wholly of employees of railway companies; (i) inmates of homes for the reform or rescue of the vicious or unfortunate, including those about to enter and those returning home after discharge, and boards of managers, including officers and superintendents of such homes; (j) superannuated and pensioned employees, and members of their families and ~~widows~~ surviving spouse of such members; (k) employees, crippled and disabled in the service of the common carrier of passengers; (l) policemen and firemen of any city, wearing the insignia of their office within the limits of such city; (m) ministers of religion, newspaper employees in exchange for advertising, traveling secretaries of Young Men's Christian Associations

and Young Women's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; (n) indigent, destitute and homeless persons, while being transported by charitable societies or hospitals, and necessary agents, employees in such transportation; (o) school children to and from public or parochial schools; (p) the railroad commission of Montana; (q) the state fire marshal; (r) the state scale expert, and their necessary employees, while traveling on official duty.

The provisions of this act shall not be construed to prohibit the interchange of passes for the persons to whom free tickets, free passes, or free transportation may be furnished or given under the provisions of this section. Nothing in this act shall be construed to invalidate any existing contract between a street railway company and a city, where a condition of a franchise grant requires the furnishing of transportation to policemen, firemen, and officers while in the performance of official duties. All acts and parts of acts in conflict herewith are hereby repealed, provided, however, that this act shall not be construed to modify or repeal the provisions of section 72-618."

Section 37. Section 72-618, R.C.M. 1947, is amended to read as follows:

"72-618. Additional free transportation authorized. That common carriers of passengers in this state authorized by section 72-617, to issue free transportation to certain classes of persons may also issue free transportation to their furloughed employees and members of their families, to persons who have become disabled or infirm in the service of a common carrier, to members of families of persons who have become disabled or infirm in the service of any such common carrier, to families of persons killed, and ~~widows during widowhood~~ surviving spouses who have not remarried and minor children during minority, of persons who died while in the service of any such common carrier, to witnesses attending any legal investigation in which such carrier is interested, for the remains of persons who died while in the employment of a common carrier, and to ex-employees traveling for the purpose of entering the service of any such common carrier; provided that the provisions hereof shall not be construed to prohibit or make unlawful the interchange of passes for the persons to whom free transportation may be furnished under this section."

Section 38. Section 75-8701, R.C.M. 1947, is amended to read as follows:

"75-8701. Qualification of students. The university system is open to all people subject to such uniform regulations as the regents deem proper. All able-bodied

SB 2

~~male~~ students of the university system may receive instruction and discipline in military tactics, the requisite arms for which shall be furnished by the state."

Section 39. Section 77-501, R.C.M. 1947, is amended to read as follows:

"77-501. Purpose of act -- definitions -- preference. The purpose of this act is to provide for preference of veterans, their unremarried ~~widows~~ surviving spouses, and dependents, and certain disabled civilians in appointment and employment in every public department and upon all public works of the state of Montana and of any county and city thereof.

(1) Definitions.

(a) The term "veterans" as herein used, means men and women who served in the armed forces of the United States, and who have been separated from such service upon conditions other than dishonorable, in time of war or declared national emergency as follows: the Civil War; the Spanish American War; the Philippine Insurrection; World War I, between April 6, 1917, and November 11, 1918, both dates inclusive; World War II, which term means such service between September 16, 1940, and December 31, 1946, both dates inclusive; the Korean War, military expedition, or police action, between June 26, 1950, and January 31, 1955, both dates inclusive; and those honorably discharged

veterans who have served on active military duty for more than one hundred eighty (180) days after January 31, 1955, or who were discharged or released because of a service-connected disability, including, but not limited to, those veterans serving because of the Vietnam Conflict.

(b) The term "~~widows~~-surviving spouse" as herein used means unremarried ~~widows~~ surviving spouses of veterans.

(c) The word "per centum" means per centum of the total aggregate points of the examination hereinafter referred to.

(2) Preference to appointment and employment.

In every public department and upon all public works of the state of Montana and of any county or city thereof, the following shall be preferred for appointment and employment: veterans, their ~~wives--and--widows~~ spouses and surviving spouses, and the other dependents of disabled veterans; disabled civilians recommended by the state rehabilitation bureau;

Provided that age, loss of limb, or other physical impairment which does not in fact incapacitate, shall not be deemed to disqualify any disabled veteran or any such disabled civilian provided he or she possesses the business capacity, competency, and education to discharge the duties of the position involved;

Provided further that those of the above described

veterans who have disabilities admitted by the veterans administration of the United States to have been incurred in service in any of said wars or military expeditions or police action, where such disabilities do not in fact incapacitate shall be given preference in employment over other veterans.

(3) Credit for examinations.

When written or oral examinations are required for employment as above described, disabled veterans and their ~~wives~~ spouses, their unremarried ~~widows~~ surviving spouses, and other dependents of disabled veterans, shall have added to their examination ratings a credit of ten points, and all other veterans, their ~~wives~~ spouses, unremarried ~~widows~~ surviving spouses, and dependents shall have added to their examination ratings a credit of five points; provided that the fact that an applicant has claimed a veterans' credit shall not be made known to the examiners until ratings of all applicants have been recorded; after which such credits shall be added to the examination rating and the records shall show the examination rating and the veteran's credit; provided further that the benefits of this subsection are in addition to and not in derogation of the preference in appointment and/or employment given by subsection (2) hereof.

(4) Eligibility.

That none of the benefits of this act shall accrue to any person who refused to serve on active duty in the military service to which attached, or to take up arms in the defense of the United States; provided, however, that no person, not a citizen of the United States, shall be employed by any state, city or county officer in any capacity if competent American labor is available; and provided, further, that no person who has not been a resident of Montana for at least one (1) year immediately preceding an appointment shall be entitled to such preference; provided, further, that for city or county employment, no preference will be granted unless applicant under this act is also a resident of the city or town or county in which employment is sought.

(5) Enforcement of preference.

That any person entitled to preference in this section who has applied for any appointment or employment upon public works of the state of Montana or of any county and city thereof, or in any public department of said state and who has been denied said employment or appointment and feels that the spirit of this act has been violated and that ~~he~~ such person is in fact qualified physically, mentally and possesses business capacity, competency and education to discharge the duties of the position applied for, shall have the right to petition by verified petition the district

SB 2

court of the state of Montana in the county in which the work is to be performed, setting forth the facts of ~~his~~ the application, qualifications, competency and ~~his~~ such person's honorable discharge or other qualifications warranting ~~him~~ the applicant to preference under this act, and upon filing of such petition any judge in said court shall forthwith issue an order to show cause to the appointing authority directing said appointing authority to appear in said court at a specified time and place, not less than five (5) nor more than ten (10) days after the filing of said verified petition, to show cause, if any ~~he has~~ exists, why said veteran or person entitled to preference should not be employed by ~~him~~ such appointing authority and that said district court shall have jurisdiction upon the proper showings to issue its order directing and ordering said appointing authority to comply with this law in giving the preference herein provided."

Section 40. Section 77-1002, R.C.M. 1947, is amended to read as follows:

"77-1002. Duty of commission. It shall be the duty of the commission and it shall have power to establish a state-wide service for discharged veterans and their families; to actively co-operate with state and federal agencies having to do with the affairs of veterans and their families; and to promote the general welfare of all veterans

and their families. In carrying out the purposes of this act the commission may employ a director, service officers, assistants, clerks, or other personnel, all of whom must be residents of the state of Montana, prescribe their duties and fix and pay their compensation; and establish a state headquarters and such other offices as may be necessary to carry out the purposes of this act. ~~All--male~~ Whenever possible, all employees of the commission shall have served in the military forces of the United States during World War I, World War II, the Korean War, or the Vietnam Conflict, and shall have been honorably discharged therefrom; ~~whenever possible--female--employees--shall-also-be-persons-honorably discharged-from-service-during-World-War-I,--World--War--II, the--Korean-War,-or-the-Vietnam-Conflict,~~ preference for all appointments shall be given to disabled veterans."

Section 41. Section 80-1801, R.C.M. 1947, is amended to read as follows:

"80-1801. Location and function of home -- persons admitted. The institution at Columbia Falls is the "Montana Veterans' Home" and, as its primary function, provides home and subsistence for honorably discharged veterans. The department may also admit ~~wives--or--widows~~ spouses or surviving spouses of honorably discharged veterans to the home if space allows."

Section 42. Section 80-1803, R.C.M. 1947, is amended

to read as follows:

"80-1803. Eligibility for residence in home. To be eligible for residence in the Montana veterans' home under the regulations prescribed by the state department of institutions a person shall

(1) Be an honorably discharged veteran, or the ~~wife or widow~~ spouse or surviving spouse of a veteran, who served in the armed forces of the United States.

(2) Be an invalid and have become unable to earn a livelihood as a result of the disability.

(3) Have resided in Montana for a period of two years immediately prior to making application for admittance.

(4) Not have been convicted of a felony or of a crime involving moral turpitude.

(5) Not be an alcoholic or have a record of habitual inebriation.

~~(6) If a woman, be fifty (50) years of age or older.~~"

Section 43. Section 84-301, R.C.M. 1947, is amended to read as follows:

"84-301. Classification of property for taxation. For the purpose of taxation the taxable property in the state shall be classified as follows:

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to

enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise or succession by any person or corporation, the surface title to which has passed to or remains in another, the state department of revenue shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes and except as provided in Class Five (b) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in

SB 2

the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1 1/4) miles.

Class Three. Livestock, poultry and unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except mobile homes; and all office or hotel furniture and fixtures.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five, Class Seven or Class Eight.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock in trade, and except as such property may be included in Class Eight.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and

other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms "moneys and credits" as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana except those within the incorporated limits of a city or town in which less than ninety-five per cent (95%) of the electric consumers and/or telephone users are served by a co-operative organization, and as to the property enumerated in this sub-section (b) within incorporated limits of a city or town in which less than ninety-five per cent (95%) of the electric consumers or users will be served by a co-operative organization, such property shall be put in Class Two.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, except all perishable fruits and vegetables in farm storage and owned by the producer, and excepting livestock and poultry and the unprocessed products of both.

(d) The dwelling house, and the lot on which it is erected, owned and occupied by any resident of the state, who has been honorably discharged from active service in any branch of the armed forces, who is rated one hundred per cent (100%) disabled due to a service-connected disability by the United States veterans administration or its successors.

In the event of the veteran's death, the dwelling house, and the lot on which it is erected, so long as the ~~widow~~ surviving spouse remains unmarried and the owner and occupant of the property, shall remain within this classification.

Class Six. Property formerly included in this class is now classified by section 84-308, R.C.M. 1947.

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state department of revenue, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961, within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or

merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state department of revenue in such manner and form as may be required by said department.

Class Eight. Any improvement on real property, trailers affixed to land or mobile home belonging to any person who qualifies under any one or more of the hereinafter set forth categories, valued at not more than seventeen thousand five hundred dollars ($17,500), which is owned or under a contract for deed, and which is actually

SB 2

occupied by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(2) a widower ~~sixty-five (65)~~ sixty-two (62) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(3) a widow or widower with minor or dependent children regardless of age, who qualifies under the income limitations of (4), or

(4) a recipient of retirement benefits whose income from all sources is not more than four thousand dollars ($4,000) for a single person and five thousand two hundred dollars ($5,200) for a married couple per annum. Provided, further, that one who applies for classification of property under this class must make an affidavit to the state department of revenue on a form as may be provided by the state department of revenue supplied without cost to the applicant, as to ~~his~~ income, if applicable, as to ~~his~~ retirement benefits, if applicable, or, as to ~~his~~ marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form.

Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Class Nine. All property not included in the eight (8) preceding classes."

Section 44. Section 84-3206, R.C.M. 1947, is amended to read as follows:

"84-3206. Laundries. Every person engaged in laundry business, other than the steam-laundry business, shall pay a license of ten dollars per quarter; provided, that this act shall not apply to ~~the--women~~ persons engaged in the a laundry business, where not more than two ~~women~~ persons are engaged or employed or kept at work, and said license shall be for one place of business only."

Section 45. Section 91-1304, R.C.M. 1947, is amended to read as follows:

"91-1304. Authority of unmarried ~~woman~~ person not extinguished by ~~her~~ marriage--appointment of married ~~woman~~ person. When an unmarried ~~woman~~ person appointed ~~executrix~~ personal representative marries, ~~her~~ such person's authority is not extinguished. When a married ~~woman~~ person is named as ~~executrix~~ personal representative, ~~she~~ such person may be appointed and serve in every respect as an unmarried ~~woman~~ person."

Section 46. Section 92-707, R.C.M. 1947, is amended to

LC 0006

read as follows:

"92-707. Compensation from what date paid. When an injured employee has no ~~wife~~ spouse, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of ~~his~~ the employee's death, no compensation shall be allowed or paid during the first week of any injury, except as may be required by the provisions of the preceding section, but if disability continues one (1) week, compensation shall be paid from the date of injury. Where the injured employee has a beneficiary or a major or minor dependent residing within the United States who would be entitled to compensation in case of ~~his~~ the employee's death, no compensation shall be paid for the first week of any injury, but if disability continues one (1) week, compensation shall be paid from the date of injury; provided, that separate benefits of medical and hospital services shall be furnished from date of injury."

Section 47. Section 92-1303, R.C.M. 1947, is amended to read as follows:

"92-1303. Definitions. Except as in this section and elsewhere in this act expressly set forth, the definitions contained in the Workmen's Compensation Act shall apply to terms and words herein contained.

1. "Weekly wage" means the average of the weekly

earnings of the employee in the employ of ~~his~~ an employer against whom compensation is awarded during the period of one year prior to the termination of ~~his~~ the employment with such employer, or during such lesser period in such year as ~~he~~ the employee has been in the employ of his employer. In case the employee is absent from employment during the period as a result of the occupational disease for which compensation is claimed, then the week or weeks in which the absence occurs shall not be included in the computation of the average weekly wage. If the period provided in this section for computation of the average weekly wage does not include four weeks, then the average weekly wage shall be such as, having regard to the previous wage of the employee, or of other employees of the same or most similar class working in the same or most similar employment in the same or neighboring locality, reasonably represents the weekly earning capacity of the disabled employee in the employment in which ~~he~~ the employee is working at the time of his disablement.

2. "Award" means the finding or decision of the board as to the amount of compensation due any disabled employee or the dependents of any deceased employee.

3. "Board" means the industrial accident board of the state of Montana.

4. "Compensation" means the payments and benefits

HB 2

provided in this act.

5. "Disablement" means the event of becoming physically incapacitated by reason of an occupational disease as defined in this act from performing any work for remuneration or profit. "Silicosis," as defined in this act, when complicated by active pulmonary tuberculosis, shall be presumed to be total disablement. "Disability," "disabled," "total disability," or "totally disabled" shall be synonymous with "disablement," but they shall have no reference to "partial permanent disability." Provided that in the event of death or disability due to pneumoconiosis the following shall apply:

a. If a miner who is suffering or has suffered from pneumoconiosis was employed for ten (10) years or more in one (1) or more coal mines there shall be a rebuttable presumption that ~~his~~ the pneumoconiosis arose out of such employment.

b. If a deceased miner was employed for ten (10) years or more in one (1) or more coal mines and died from a respirable disease there shall be a rebuttable presumption that ~~his~~ the death was due to pneumoconiosis.

c. If a miner is suffering or suffered from a chronic dust disease of the lung which (1) when diagnosed by chest roentgenogram yields one (1) or more large opacities (greater than one centimeter in diameter) and would be

classified in category A, B, or C in the international classification of radiographs of the pneumoconioses by the international labor organization, (2) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (3) when diagnosis is made by other means, would be a condition which would reasonably be expected to yield results described in clause (1) or (2) if diagnosis had been made in the manner prescribed in clause (1) or (2) then there shall be an irrebuttable presumption that ~~he~~ such miner is totally disabled due to pneumoconiosis or that ~~his~~ death was due to pneumoconiosis, as the case may be.

6. The terms "employee," "workman," and "operative," as used herein, shall mean:

Every person in the service of the state, and of a county, city, town, municipal corporation, or school district, including the regular members of lawfully constituted police and fire departments of cities and towns.

Every person in the service of any employer subject to this act as hereinafter defined or to whom such employer is required to secure compensation under this act, including aliens and minors legally or illegally permitted to work for hire, but not including a person whose employment is casual and is not in the usual course of trade, business, or occupation of the employer, and not including agricultural workers and domestic servants unless the employer shall so

elect.

7. "Beneficiary" means and shall include a surviving wife or husband and a surviving child or children under the age of eighteen (18) years and an invalid child or invalid children over the age of eighteen (18) years, or if no surviving wife or husband then a surviving child or children under the age of eighteen (18) years and an invalid child or invalid children over the age of eighteen (18) years; provided, however, that no invalid child over the age of eighteen (18) years shall be considered a beneficiary unless dependent upon the decedent for support at the time of disablement.

8. "Major dependent" means if there be no beneficiary as defined in a preceding section, the father or mother, or the survivor of them, if actually dependent upon the decedent at the time of ~~his~~ the decedent's disablement, then to the extent of such dependency, not to exceed, however, the maximum compensation provided for in this act.

9. "Minor dependent" means if there be no beneficiary or major dependent as defined in the preceding section the brothers and sisters under the age of eighteen years, provided, however, that no invalid brother or invalid sister over the age of eighteen years shall be a "minor dependent" unless actually dependent upon the decedent at the time of ~~his~~ the decedent's disablement. Minor dependents shall be

LC 0006

awarded compensations to the extent of such dependency, not to exceed, however, the maximum compensation provided for in this act.

10. "Invalid" means one who is physically or mentally incapacitated.

11. "Child" shall include a posthumous child, a stepchild, a child legally adopted prior to the disablement, an illegitimate child legitimized prior to the disablement.

12. "Week" means six (6) working days, but includes Sundays.

13. "Wages" means the average daily wages received by the employee at the time of the disablement for the usual hours of employment in a day, and overtime is not to be considered.

14. "Wife" or "widow" means only a wife or widow living with, or legally entitled to be supported by the deceased at the time of the disablement.

15. "Husband" or "widower" means only a husband or widower ~~incapable of supporting himself, and~~ living with, or legally entitled to be supported by the deceased at the time of her disablement.

16. "Commissioner" means one (1) of the members of the industrial accident board.

17. "Appointed member of the board" means that member of the industrial accident board appointed by the governor.

18. "Order" shall mean and include any decision, rule, regulation, direction, requirement, or standard of the board, or any other determination arrived at or decision made by such board, excepting general or local orders as herein specified.

19. "Payroll," "annual payroll" or "annual payroll for the preceding year," means the average annual payroll of the employer for the preceding calendar year, or, if the employer shall not have operated a sufficient or any length of time during such calendar year, twelve (12) times the average monthly payroll for the current year; provided, that an estimate may be made by the board for any employer starting in business where no average payrolls are available, such estimate to be adjusted by additional payment by the employer or refund by the board, as the case may actually be on December 31st of such current year.

20. "Year," unless otherwise specified, means calendar year. "Fiscal year" means the period of time between the first day of July and the thirtieth (30th) day of the succeeding June.

21. "Insurer" means any insurance company authorized to transact business in this state insuring any employer under this act.

22. "Casual employment" means employment not in the usual course of trade, business, profession, or occupation

of the employer.

23. The term "physician" shall include "surgeon," and in either case shall mean one authorized by law to practice his that profession in this state.

24. Wherever the singular is used the plural shall be included, and wherever the plural is used the singular shall be included.

25. Wherever the masculine gender is used, the feminine and neuter shall be included.

26. For the purpose of this act "silicosis" is defined as a chronic disease of the lungs caused by the prolonged inhalation of silicon dioxide (SiO_2) characterized by small discrete nodules o. fibrous tissue similarly disseminated throughout both lungs, causing characteristic X-ray pattern, and by variable clinical manifestations.

a. For the purpose of this act "pneumoconiosis" is defined as a chronic dust disease of the lung arising out of employment in coal mines, and includes anthracosis, coal workers' pneumoconiosis, silicosis, or anthracosilicosis arising out of such employment.

27. "Workshift" means the work for which an employee is paid a day's wages.

28. "Workmen's Compensation Act" means the Workmen's Compensation Act of the state of Montana."

Section 48. Section 92-1321, R.C.M. 1947, is amended

to read as follows:

"92-1321. Compensation benefits payable under this act. The compensation to which an employee temporarily totally disabled or permanently totally disabled by an occupational disease, or ~~his~~ the beneficiaries and dependents of the employee in the case of death caused by an occupational disease, shall be entitled to under this act shall be the same payments which are payable to an injured employee, and such payments shall be made for the same period of time, as is provided in cases of temporary total disability, permanent total disability and in cases of injuries causing death under the Workmen's Compensation Act of the state of Montana. Benefit payments for total disability or death due to pneumoconiosis shall, for the purpose of this act, be made as follows:

a. In the case of total disability of a miner due to pneumoconiosis the disabled miner shall be paid benefits during the disability at the rate of one hundred fifty-five dollars ($155) per month.

b. In the case of death of a miner due to pneumoconiosis or of a miner receiving benefits under this part, benefits shall be paid to ~~his--widow~~ the miner's surviving spouse (if any) at the rate the deceased miner would receive such benefits if ~~he were~~ totally disabled.

c. In the case of an individual entitled to benefit

payments under clause a. or b. who has one or more dependents, the benefit payments shall be increased at the rate of fifty per centum (50%) of such benefit payments, if such individual has one (1) dependent, seventy-five per centum (75%) if such individual has two (2) dependents, and one hundred per centum (100%) if such individual has three (3) or more dependents."

Section 49. Section 93-2803, R.C.M. 1947, is amended to read as follows:

"93-2803. When a married ~~woman~~ person is a party -- actions by and against. A married ~~woman~~ person may sue and be sued in the same manner as if ~~she~~ such person were sole."

Section 50. Section 93-2804, R.C.M. 1947, is amended to read as follows:

"93-2804. ~~Wife~~-Spouse may defend, when. If a husband and wife be sued together, ~~the wife~~ each spouse may defend for his or her own right, and if the ~~husband~~ other spouse neglect to defend, ~~she~~ the spouse who does choose to defend may defend for ~~his--right--also~~ the other spouse's right also."

Section 51. Section 93-2807, R.C.M. 1947, is amended to read as follows:

"93-2807. Unmarried ~~female~~ person may sue for ~~her own~~ seduction. An unmarried ~~female~~ person may prosecute, as plaintiff, an action for his or her own seduction, and may

SB2

recover therein such damages, pecuniary or exemplary, as are assessed in ~~her~~ such person's favor."

Section 52. Section 93-2808, R.C.M. 1947, is amended to read as follows:

"93-2808. Parent or guardian may sue for seduction of ~~daughter~~ child or ward. ~~A father, or in case of his death or desertion of his family, the mother,~~ Either parent may prosecute as plaintiff for the seduction of the ~~daughter~~ child, and the guardian for the seduction of the ward, though the ~~daughter~~ child or ward be not living with or in the service of the plaintiff at the time of the seduction or afterwards, and there be no loss of service."

Section 53. Section 93-2809, R.C.M. 1947, is amended to read as follows:

"93-2809. Parent or guardian may sue for injury or death of child or ward. ~~A father, or in case of his death or desertion of his family, the mother,~~ Either parent may maintain an action for the injury or death of a minor child, and a guardian for injury or death of ~~his~~ a ward, when such injury or death is caused by the wrongful act or neglect of another. Such action may be maintained against the person causing the injury or death, or if such person be employed by another person who is responsible for his conduct, also against such other person."

Section 54. Section 93-4207, R.C.M. 1947, is amended

to read as follows:

"93-4207. Security upon injunction. On granting an injunction or restraining order, the court or judge may require, except when the state, a county, or any subdivision thereof, or municipal corporation, or a ~~married woman~~ married person in a suit for divorce against ~~her husband~~ his or her spouse, is a party plaintiff, a written undertaking on the part of the plaintiff, with sufficient sureties, to the effect that the plaintiff will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court finally decide that the plaintiff was not entitled thereto. Within five days after the service of the injunction, the defendant may except to the sufficiency of the sureties. If ~~he~~ the plaintiff fails to do so, ~~he~~ such plaintiff is deemed to have waived all objections to them. When excepted to, the plaintiff's sureties, upon notice to the defendant of not less than two nor more than five days, must justify before a judge or clerk in the same manner as upon bail on arrest, and upon failure to justify, or if others in their place fail to justify at the time and place appointed, the order granting an injunction shall be dissolved."

Section 55. Section 93-4707, R.C.M. 1947, is amended to read as follows:

"93-4707. Judgment for or against married ~~woman~~ person. Judgment for or against a married ~~woman~~ person may be rendered and enforced as if ~~she~~ such person were single."

Section 56. Section 93-5834, R.C.M. 1947, is amended to read as follows:

"93-5834. Real property sold -- how redeemed -- who are redemptioners. Property sold subject to redemption, as provided by the last section, or any part sold separately, may be redeemed in the manner hereinafter provided, by the following persons, or their successors in interest:

1. The judgment debtor, ~~his wife~~ the judgment debtor's spouse, or his successor in interest, in the whole or any part of the property, and if the judgment debtor or successor be a corporation, then by a stockholder thereof;

2. A creditor having a lien by judgment, mortgage, or attachment on the property sold, or on some share or part thereof, subsequent to that on which the property is sold. If a corporation be such creditor, then any stockholder thereof may redeem. The persons mentioned in the second division of this section are, in this chapter, termed "redemptioners.""

Section 57. Section 93-5836, R.C.M. 1947, is amended to read as follows:

"93-5836. Redemptioners' rights -- manner of redeeming -- when purchaser entitled to deed -- certificate of

redemption -- redemption by stockholders -- redeeming from ~~wife~~ spouse. (1) If property be so redeemed by a redemptioner, another redemptioner may, within sixty (60) days after the last redemption, again redeem it from the last redemptioner on paying the sum on such last redemption, with interest thereon at the rate of one-half of one per cent (1/2%) per month in addition, and the amount of any assessment or taxes which the last redemptioner may have paid thereon after the redemption by him, with like interest on such amount, and, in addition, the amount of any liens held by the said last redemptioner prior to his own, with interest; but the judgment under which the property was so sold need not be so paid as a lien. The property may be again, and as often as any redemptioner is so disposed, redeemed from any previous redemptioner, within sixty (60) days after the last redemption, on paying the sum paid on the last previous redemption, with interest thereon at the rate of one-half of one per cent (1/2%) per month, and the amount of any assessment or taxes which the last previous redemptioner paid after the redemption by him, with like interest thereon, and the amount of any liens, other than the judgment under which the property was sold, held by the last redemptioner previous to his own, with like interest.

(2) Written notice of redemption must be given to the sheriff, and a duplicate filed with the county clerk, and if

SB 2

any taxes or assessments are paid by the redemptioner, or if he has or acquired any liens other than that upon which the redemption was made, notice thereof must in like manner be given to the sheriff and filed with the county clerk; and if such notice be not filed, the property may be redeemed without paying such tax, assessments, or lien. If no redemption be made within one year after the sale, the purchaser, or his assignee, is entitled to a conveyance; or, if so redeemed, whenever sixty (60) days have elapsed, and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to a sheriff's deed; but in all cases, the judgment debtor shall have the entire period of one year from the date of the sale to redeem the property. If the judgment debtor or ~~his wife~~ the judgment debtor's spouse redeem, ~~he~~ the judgment debtor or ~~she~~ the spouse must make the same payments as are required to effect a redemption by a redemptioner. If the debtor redeem, the effect of the sale is terminated, and ~~he~~ the debtor is restored to his own estate. If the ~~wife~~ spouse redeem, ~~she~~ such spouse shall become the owner of ~~her husband's~~ the debtor spouse's interest, subject to any liens thereon at the time of the execution sale. Upon a redemption by a debtor, or ~~his wife~~ the debtor's spouse, the person to whom the payment was made must execute and deliver

to him or her a certificate of redemption, acknowledged or proved before an officer authorized to take acknowledgments of conveyances of real property. Such certificate must be filed and recorded in the office of the county clerk of the county in which the property is situated, and the county clerk must note the record thereof in the margin of the record of the certificate of sale.

(3) If a stockholder of a corporation redeems, the corporation, within one (1) year after the date of sale, may redeem by paying to the redemptioner, or the sheriff for his benefit, the amount paid to effect the redemption, with interest thereon at the rate of one-half of one per cent (1/2%) per month from the date of redemption until the date of such payment, together with any taxes or assessments that may have been paid by the redemptioner, with like interest thereon. When a stockholder redeems, any other stockholder or stockholders may, at any time after such redemption, and within sixty (60) days after the expiration of one (1) year from the date of sale, contribute to the redemption by paying to the redeeming stockholder, or depositing with the sheriff for his benefit, a sum which bears the same proportion to the amount necessary to redeem which the number of shares owned by such contributing stockholder or stockholders bears to the number of shares of such corporation outstanding, with interest on such sum from the

date of redemption until the date of contribution at the rate of one-half of one per cent (1/2%) per month, together with a like proportion of the taxes or assessments paid by such redeeming stockholder, with like interest thereon, and if the corporation does not redeem the property within the time and in the manner and form as aforesaid, the said redeeming and contributing stockholders shall be entitled to receive a sheriff's deed for such property so redeemed, and shall succeed to the said property as tenants in common in such proportions, respectively, as they shall respectively pay or contribute to such redemption as aforesaid. The redeeming or contributing stockholder shall, in all cases when applying to redeem or contribute as aforesaid, present an affidavit, setting forth the number of shares of stock owned by him, and to the best of his knowledge, the number of shares of stock of the corporation outstanding.

(4) If the ~~wife~~ spouse of a judgment debtor redeem, the ~~husband~~ judgment debtor, within one year after the date of sale, may redeem by paying the ~~wife~~ spouse or ~~her~~ the spouse's successors in interest or the sheriff for ~~her or their~~ the benefit of the spouse or the successors in interest of the spouse, the amount paid to effect the redemption, with interest thereon at the rate of one-half of one per cent (1/2%) per month from the date of redemption until the date of such payment, together with any taxes or

assessments that may have been paid by the ~~wife~~ spouse or ~~her~~ the successors in interest of the spouse, with like interest thereon."

Section 58. Section 93-6711, R.C.M. 1947, is amended to read as follows:

"93-6711. Service of summons. The summons may be served by a sheriff or constable of any of the counties of this state; provided, that when a summons issued by a justice of the peace is to be served out of the county in which it was issued, the summons shall have attached to it a certificate under seal by the county clerk of the county in which it was issued, to the effect that the person issuing the same was an acting justice of the peace at the date of the summons; or the summons may be served by any ~~male~~ person resident in the state, ~~over the age of~~ eighteen (18) years of age or older, not a party to the suit, and must be served and returned as provided in Montana Rules of Civil Procedure, Rule 4D (2), (3), (4), (8), and (9); or it may be served by publication, provided in Montana Rules of Civil Procedure, Rule 4D (5) and (8), so far as they relate to publication of summons, are made applicable to justices' courts; the word "justice" being substituted for the word "clerk" whenever the latter word occurs."

Section 59. Section 93-9706, R.C.M. 1947, is amended to read as follows:

SB2

"93-9706. Parties defendant. No person other than the tenant of the premises, and subtenant if there be one, in the actual occupation of the premises when the complaint is filed, need be made parties defendant in the proceeding, nor shall any proceeding abate, nor the plaintiff be nonsuited for the nonjoinder of any person who might have been made party defendant; but when it appears that any of the parties served with process, or appearing in the proceeding, is guilty of the offense charged, judgment must be rendered against ~~him~~ such party. In case a defendant has become a subtenant of the premises in controversy, after the service of the notice provided for by part 2 of section 93-9703, upon the tenant of the premises, the fact that such notice was not served on each subtenant shall constitute no defense to the action. ~~In case a married woman be a tenant, or a subtenant, her coverture shall constitute no defense, but in case her husband be not joined, or unless she has separate property, an execution issued upon a personal judgment against her can only be enforced against property on the premises at the commencement of the action, or against her separate property.~~ In case a married person is a tenant or subtenant, failure to join such person's spouse shall constitute no defense; but in case the spouse is not joined, an execution issued upon a personal judgment against the tenant or subtenant can only be enforced against property on

the premises at the commencement of the action or against property that is owned solely by the tenant or subtenant and not by his spouse. All persons who enter the premises under the tenant, after the commencement of the action, shall be bound by the judgment, the same as if he or they had been made party to the action."

Section 60. Section 93-100-2, R.C.M. 1947, is amended to read as follows:

"93-100-2. Application for change of name -- how made. All applications for change of names must be made to the district court of the county where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under eighteen (18) years of age, by one of the parents, if living, or if both be dead, then by the guardian; and if there be no guardian, then by some near relative or friend. The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name; and must, if ~~the father~~ neither parent of such person be ~~not~~ living, name as far as known to the petitioner, the near relatives of such person, and their place of residence. Any religious, benevolent, literary, scientific corporation, or any corporation bearing or having for its name, or using or being known by the name of, any benevolent or charitable order or society, may, by petition,

apply to the district court of the county in which its articles of incorporation were originally filed, or in which the property of such corporation is situated, for a change of its corporate name. Such petition must be signed by a majority of the directors or trustees of the corporation, and must specify the date of the formation of the corporation, the name proposed, and the reason for such change of name. Upon filing such petition on behalf of such corporation, the same proceedings shall be made as upon applications for changes of names of natural persons, and no banking corporation hereafter organized shall adopt or use the name of any other banking corporation or association, or of any friendly association."

Section 61. Section 95-609, R.C.M. 1947, is amended to read as follows:

"95-609. Assisting a peace officer. (a) A peace officer making a lawful arrest may command the aid of ~~male~~ persons ~~over the age of~~ eighteen (18) years of age or older.

(b) A person commanded to aid a peace officer shall have the same authority to arrest as that officer.

(c) A person commanded to aid a peace officer in making an arrest shall not be civilly liable for any reasonable conduct in aid of the officer."

Section 62. There is a new R.C.M. section numbered 12-216 that reads as follows:

12-216. "Man" and "men" to include women. Wherever the word man or men or a word which includes the syllable "man" or "men" in combination with other syllables, such as "workman" appears in this code, such word or syllable shall be deemed to include "woman" or "women" unless the context clearly indicates a contrary intent and unless the subject matter of the statute relates clearly and necessarily to the male sex only.

-End-

SB 2

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
January 10, 1975

The meeting was called to order by Senator Towe, chairman, at 9:35 A.M., in Room 442 of the Capitol Building.

The following bills were heard:

SB 2
SB 4

SB 2--Senator Rosell, from District 32 and sponsor of the bill, stated that the bill was the result of the Interim Committee on implementing the Equal Rights Amendment. The bill makes the necessary amendments to do away with discriminatory language. She stated that §62 re-defines the meaning of "man" and "men" to include women.

Rosemary Zion, testifying on behalf of the bill, stated that the Legislative Council took the odds and ends of the Statute Book and put them all into one bill to remove the discriminatory language. She stated that pension benefits would be made equally available to both spouses. She also stated that the bill dealt with non-discriminatory practices in political committees by requiring that both sexes be represented in the leadership of the committees. The bill also removes the discriminatory language concerning nomination of candidates. She also stated that the bill would be effective July 1, 1975, if passed, to conform with the Uniform Probate Code.

Lynne W. Scott, representing Montana Women's Political Caucus, expressed the group's support of the bill.

Margaret S. Davis, representing the Montana League of Women Voters, expressed that group's support of the bill and presented her written testimony (attached).

WITHOUT OBJECTION, THE CHAIR WAS REQUESTED TO OBTAIN A FISCAL NOTE. THE COMMITTEE WITHHELD ACTION ON THIS BILL AWAITING A FISCAL NOTE. ACTION WILL BE TAKEN BY JANUARY 17, 1975.

SB 4--Senator Rosell, from District 32 and sponsor of the bill, stated that the bill would change the laws regarding property and support in a marriage.

Rosemary Zion, testifying on behalf of the bill, stated that under this bill both spouses would have an obligation to support the other. Also, the work of a homemaker would constitute support under this bill. The parties to the marriage would be able to keep their property separate except that necessary for the necessities of the family. Therefore, each spouse's property would not be attachable for debts incurred by the other spouse for non-necessities of the family.

Mrs. Davis and Mrs. Scott again stated their organizations' support of this bill. Mrs. Scott also presented her written testimony (attached).

ROLL CALL

Judiciary COMMITTEE

~~SECOND HALF~~ 44th - ~~43rd~~ LEGISLATIVE SESSION 1975 Date 1/10/75

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	✓		
Joe R. Roberts	✓		
V. E. Cetrone	✓		
Margaret S. Warden	✓		
Robert J. Brown	✓		
Glen L. Drake	✓		
Jean A. Turnage	✓		
Michael Greely	✓		

Each day attach to minutes

REPRODUCED FROM
DETERIORATING COPY

SENATE BILL NO. 2 1975

"An Act to Generally Revise Certain Statutes Which Discriminate on the Basis of Sex in Order to Remove the Discrimination."

The League of Women Voters of Montana recommends passage of Senate Bill 2 and other bills as required to implement the equal rights provision of the 1972 state Constitution.

Our long-standing position against discrimination on any basis permits us to testify in favor of these bills. The League believes that the law should apply equally to all Montana citizens.

Margaret S. Davis
917 Harrison, Helena, Montana
League of Women Voters of Montana

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
JANUARY 17, 1975

The meeting was called to order by Senator Towe, Chairman at 9:40 a.m., in Room 442 of the Capitol Building.

The Committee discussed the following bills: SB 27
SB 5
SB 4
SB 2

SB 27 - Senator Murphy, from District 40 and sponsor of the bill, stated the bill simply raises the amount of inheritance tax exemption to $60,000 applying it to all immediate family members. The intent of the bill is to bring exemption amounts in line with inflated property values of the past few years. Small businessmen, farmers and ranchers will derive primary benefit from the bill. The approximate cost to the state will be $1.2 million a year.

Clyde Jarvis, President, Montana Farmers Union, spoke in support of the bill and presented his written testimony (attached).

Mark E. Taliaferro, representing the Montana Farm Bureau, expressed total support of the bill by that group.

Spike Van Cleve, representing the Sweet Grass County Preservation Association, expressed support of the bill by that association. He stated that the increased exemption will help keep young ranch and farm people in agriculture and will help avoid the trend of subdividing agricultural lands.

Mrs. Sandy Sargent, representing the Environmental Information Center, presented her written testimony to the Committee (attached).

Senator Murphy stated that the inheritance exemption will be of great benefit to farmers and ranchers becuase inflation has increased property values immensely while profit margins have not increased to any degree.

SB 5
SB 4 - AFTER DISCUSSION, THE COMMITTEE VOTED TO ASSIGN SB 4 AND SB 5 TO A SUB-COMMITTEE FOR FURTHER STUDY. SENATOR TOWE APPOINTED SENATOR WARDEN, SENATOR BROWN, AND SENATOR GREELY TO THE SUB-COMMITTE. SENATOR GREELY WAS APPOINTED CHAIRMAN.

SB 2 - SENATOR TURNAGE MOVED THE ADOPTION OF THE FOLLOWING AMENDMENT TO THE BILL: TO AMEND PAGE 16, SECTION 8, SUB-SECTION (3), LINE 18 FOLLOWING THE WORD "HIM" INSERTING THE FIGURE AND WORD "/HER"; AND FURTHER AMEND PAGE 16, SECTION 8, SUB-SECTION (3), LINE 19 BY STRIKING THE WORD "MAN" AND INSERING IN LIEU THEREOF THE WORD "PERSON".

THE MOTION PASSED UNANIMOUSLY ON A ROLL CALL VOTE.

SENATOR TURNAGE MOVED THE ADOPTION OF THE FOLLOWING AMENDMENTS: AMEND PAGE 44, SECTION 30, SUBSECTION (2), SUBSECTION (e), LINE 1, FOLLOWING:"(e)", STRIKE: "A PARTNER'S RIGHT IN SPECIFIC PARTNERSHIP" AND INSERT: "PROVIDED THE PROCEEDS OF A DECEASED PARTNER'S INTEREST ARE INCLUDED IN THE ASSETS OF THE DECEDENT'S ESTATE SUCH"

FURTHER AMEND PAGE 44, SECTION 30, SUBSECTION (2), SUBSECTION (e), LINE 2, FOLLOWING: "~~COURTESY,~~" INSERT " A LIEN OF"

FURTHER AMEND PAGE 44, SECTION 30, SUBSECTION (2), SUBSECTION (e), LINE 2, STRIKING: "SPOUSES," AND INSERTING "SPOUSE FOR HIS OR HER"

FURTHER AMEND PAGE 44, SECTION 30, SUBSECTION (2), SUBSECTION (e), LINE 3, FOLLOWING: "SHARE" INSERT: ","

FURTHER AMENT PAGE 44, SECTION 30, SUBSECTION (2), SUBSECTION (e), LINE 3, FOLLOWING: "SHARE" INSERT: "OR A LIEN FOR,"

THE MOTION PASSED UNANIMOUSLY ON A ROLL CALL VOTE.

SENATOR TURNAGE MOVED SENATE BILL 2 DO PASS AS AMENDED. THE MOTION PASSED UNANIMOUSLY ON A ROLL CALL VOTE.

There being no further business, the meeting adjourned to reconvene Saturday, January 18, 1975 at 9:30 a.m.

Thomas E. Lee

CHAIRMAN

ROLL CALL

Judiciary COMMITTEE

44th
~~SECOND HALF~~ - ~~43rd~~ LEGISLATIVE SESSION 1975 Date 1/17/75

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	X		
Joe R. Roberts	X		
V. E. Cetrone	X		
Margaret S. Warden	X		
Robert J. Brown	X		
Glen L. Drake	X		
Jean A. Turnage	X		
Michael Greely	X		

Each day attach to minutes

SENATE COMMITTEE JUDICIARY

Date January 17, 1975 Bill No. 2 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Secretary

/s/ Thomas E. Towe
Chairman

Motion: by Senator Turnage to amend Page 16, Section 8, Subsection (3), Line 18 and Line 19

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date January 17, 1975 Bill No. 2 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Secretary

/s/Thomas E. Towe
Chairman

Motion: by Senator Turnage to amend page 44, section 30, subsection (2), Lines 1, 2, and 3

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date January 17, 1975 Bill No. 2 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Secretary

/s/ Thomas E. Towe
Chairman

Motion: by Senator Turnage that SB 2 Do Pass as amended.

(include enough information on motion--put with yellow copy of committee report.)

JUDICIARY COMMITTEE

March 10, 1975

The forty ninth meeting of the House Judiciary Committee was called to order in Room 436 of the Capitol Building at Helena, Montana on Monday, March 10, 1975 at 9:00 AM. Representative Herb Huennekens chairman, was absent, excused. All members were present except Representative Meloy, absent, excused. Representative James Moore, Vice-chairman, presided.

Bills scheduled for hearing this date were Senate Bills Nos. 2, 5, 4, 124 and 393 and they were heard in this order.

SENATE BILL NO. 2 Senator Antoinette Rosell, District #32, is chief sponsor of this act to generally revise certain statutes which discriminate on the basis of sex in order to remove the discrimination.

Senator Rosell stated this is an omnibus bill which came out of an interim committee study and is one of a package of twelve bills. Only minor changes are necessary to eliminate discrimination in the present law.

Debbie Schmidt, staff person with Legislative Council, stated this is a monumental bill as far as length, it deals with necessary but minor changes in the present laws. The committee went through various code sections and eliminated discriminatory language. An important aspect of the bill includes that pension benefits extend to include the spouse and not just the widow. According to the fiscal note there is negligible impact. The bill affects the composition of political committees, the chair and vice-chair must be of the opposite sex. The bill also effects a change in the law for forms for political candidates. In the present law a wife's political contributions are considered to be their own money. There is also a new section on page 86 which states that every word "man" will include "woman" from now on. It is basically accepted that eventually cosmetic changes will be made.

Proponent Margaret Davis, representing the League of Women Voters, stated that many changes are quite minor, others will affect citizens of Montana, and they support passage of this bill. Proponent Jan Gerke stated they support this bill.

Joan Woodgerd stated the secretary of state's office had a question on section 13 on page 27 and thinks maybe 23-3405 should be amended. This refers to precinct committee persons and there are five other sections of law that refer to precinct committee people that should be amended. Diana Dowling has a copy of these proposed amendments.

No opponents. Senator Rosell, in closing, stated that Representatives Yardley and Halvorson were quite helpful in putting this bill together.

Following very brief questioning the hearing was closed.

NAME Margaret S Davis Bill No. SB 2 SB 4, SB 5

ADDRESS 917 Harrison Date 10 Mar 75

WHOM DO YOU **REPRESENT?** MT LEAGUE of Women Voters

SUPPORT X **OPPOSE** _____ AMEND _____

PLEASE LEAVE **PREPARED STATEMENT WITH SECRETARY.**

Comments:

The League of Women Voters of Montana supports SB 2, SB 4, and SB 5. These bills address changes mandated by the 1972 State Constitution's equal rights provisions. They have received careful scrutiny and the league believes that they adequately protect both male and female Montana citizens.

NAME Jeanne Woodford Bill No. SB2

ADDRESS _____ Date _____

WHOM DO YOU **REPRESENT?** Secretary of State

SUPPORT _____ **OPPOSE** _____ AMEND ✓

PLEASE LEAVE **PREPARED STATEMENT** WITH SECRETARY.

Comments:

Diane Dawling has copy of amendment suggestion

Representative McKittrick stated that with this bill we are looking into a legislative area that will be interpreting and protecting citizens' rights.

Representative Lester made a substitute motion to defer action on the bill as he feels we should have more committee members here, this is a pretty important bill. Motion to defer carried with Representatives Hager, Rasmussen and Seifert voting no.

SENATE BILL NO. 154 Senator Towe is chief sponsor of this act relating to the judges' retirement system and redefining "final salary".

Representative Halvorson moved BE CONCURRED IN and supported her motion with the comment that she sees no harm if when they get to be senile old justices they should be pensioned, they do this in the business world. Representative Seifert stated he agreed with the bill but felt the age of seventy for retirement was too old. Representative Lory stated this is the only case in the system in which if salary goes up the retirement pension goes up. Chairman Huennekens stated this is a built in cost of living increase.

Motion BE CONCURRED IN carried. Representative Day abstained.

SENATE BILL NO. 2 Senator Antoinette Rosell, District #32, is chief sponsor of this act to generally revise certain statutes which discriminate on the basis of sex in order to remove the discrimination.

Representative Lory moved BE CONCURRED IN. Staff Attorney Diana Dowling stated there had been testimony about precinct committee person which is on page 27. She talked this over with the woman on committee who said this was a Rosemary Zion decision. This woman said to just take this section out. There are other sections in the law that talk about committee men and women, the law already provides for chair and vice-chair being of opposite sex. She recommended committee delete Section 13. This would also affect other sections of the law. Joan Woodgerd from the Secretary of State's office agreed with Diana Dowling.

Representative Hager made a substitute motion that Section 13 be deleted. Motion to amend carried. Will also, because of this amendment, delete "23-3405" in the title, line 8.

Representative Halvorson stated that Representative Scully questions why not just say "spouses". Diana Dowling stated she didn't work with the committee but thinks there were areas where this term just didn't fit right.

Representative Lester moved AS SO AMENDED BE CONCURRED IN. Motion carried unanimously.

SENATE BILL NO. 76 Senator Mike Greely is chief sponsor of this act revising political campaign reporting requirements. Chairman Huennekens stated there had been some discussion during hearing of filing of report if spend over $500, this is on page 6. Steve Brown replied that this applies to local candidates, if they spend more than $500 they would have to file a report with the Secretary of State's office. In reply to question by Chairman Huennekens, Steve Borwn replied that he was chairman of the commission that produced most of the material.

Representative Day questioned where reports would be filed to which Steve Brown replied that page 4, line 20 explains where reports will be filed. You only file locally in the county in which you reside. Not filing in county in which they reside applies only to county attorneys. Representative Day questioned if this would apply to carpet baggers to which Steve Brown replied no.

Representative Baeth questioned if the candidate has no opposition in his district (page 1, line 13) does he have to have a treasurer to which Steve Brown replied no, he can name himself treasurer. Joan Woodgerd stated that if you are going to spend over the limit of expenditures you have to have a treasurer. She thinks this is a good provision.

Representative Rasmussen questioned the reason for the salary of the commissioner and how he would be appointed as well as his duties in off years. (This material was covered in hearing on the bill).

Representative Lory questioned the right to inspect account under Section 14 on page 27. Joan Woodgerd stated this is provided in law now but under mandamus. The stipulation now is that it must be during reasonable office hours.

Representative Halvorson moved to amend on page 18, line 2 by striking "the same salary as a state district court judge and shall receive the same salary increases awarded such judges" and insert: "an annual salary of eighteen thousand five hundred dollars ($18,500) and the salary commission may recommend salary increases to the legislature". She stated she feels the salary is out of line for the job. Following discussion the motion to amend carried.

Representative Baeth moved AS SO AMENDED BE CONCURRED IN. Motion carried with Representative Seifert voting no.

SENATE BILL NO. 4 Senator Antoinette Rosell is chief sponsor of this act to change the laws relating to husbands

SENATE BILL NO. 2

INTRODUCED BY ROSELL, REGAN, TORNAGE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE CERTAIN STATUTES WHICH DISCRIMINATE ON THE BASIS OF SEX IN ORDER TO REMOVE THE DISCRIMINATION; AMENDING SECTIONS 11-802, 11-1821, 11-1911, 11-1915, 11-1927, 11-1928, 11-2025, 11-3112, 11-3215, 16-2702, 17-504, 17-807, ~~23-3405,~~ 23-4727, 23-4728, 35-409, 39-108, 39-109, 39-113, 40-3312, 40-4902, 40-5305, 41-1119, 41-1506, 45-511, 45-603, 45-808, 59-519, 63-107, 63-402, 64-209, 67-903, 67-904, 67-1603, 71-120, 72-617, 72-618, 75-8701, 77-501, 77-1002, 80-1801, 80-1803, 84-301, 84-3206, 91-1304, 92-707, 92-1303, 92-1321, 93-2803, 93-2804, 93-2807, 93-2808, 93-2809, 93-4207, 93-4707, 93-5834, 93-5836, 93-6711, 93-9706, 93-100-2, 95-609, R.C.M. 1947; AND CREATING A NEW SECTION 12-216, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 11-802, R.C.M. 1947, is amended to read as follows:

"11-802. Powers of mayor. The mayor is the chief executive officer of the city or town, and has power:

1. To nominate, and, with the consent of the council, to appoint all nonelective officers of the city or town, provided for by the council, except as provided in this title.

2. To suspend, and, with the consent of the council, to remove any nonelective officer, stating in the suspension or removal the cause thereof.

3. To cause the ordinances of the city or town to be executed, and to supervise the discharge of official duty by all subordinate officers.

4. To communicate to the council, at the beginning of every session, and oftener if deemed necessary, a statement of the affairs of the city or town, with such recommendations as ~~he~~ the mayor may deem proper.

5. To recommend to the council such measures connected with the public health, cleanliness, and ornament of the city or town, and the improvement of the government and finances, as ~~he~~ the mayor deems expedient.

6. To approve all ordinances and resolutions of the council adopted by it, and, in case the same do not meet ~~his~~ the mayor's approbation, to return the same to the next regular meeting of the council, with ~~his~~ all objections in writing, and no ordinance or resolution so vetoed by the mayor must go into effect unless the same be afterwards passed by two-thirds vote of the whole number of members of the council.

7. To veto any objectionable part of a resolution or

REFERENCE BILL

SB 0002/03

ordinance, and approve the other parts. If the mayor fail to return any resolution or ordinance as aforesaid, the same takes effect without further action.

8. To call special meetings of the council, and when so called ~~he~~ the mayor must state by message the object of the meeting, and the business of the meeting must be restricted to the object stated.

9. To cause to be presented, once in three months, a full and complete statement of the financial condition of the city or town.

10. To bid in for the city or town any property sold at a tax or judicial sale, where the city or town is a party or interested.

11. To procure and have in ~~his~~ the mayor's custody the seal of the city or town.

12. To take and administer oaths.

13. To call on every ~~male~~ citizen of the city or town, over the age of eighteen years, to aid in the enforcement of the laws and ordinances in case of riots; to call out the militia to aid ~~him~~ the mayor in suppressing the same or other disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the city, or for carrying into effect any law or ordinance; and any person who does not obey such call forfeits to the city or town a fine not exceeding twenty-five dollars.

14. To require of any of the officers of a city or town an exhibit of ~~his~~ such officer's books and papers.

15. To grant pardons and remit fines and forfeitures for offenses against city or town ordinances, when in ~~his~~ the mayor's judgment public justice would be thereby subserved; but ~~he~~ the mayor must report all pardons granted, with the reasons therefor, to the next council.

16. To perform such other duties as may be prescribed by law or by resolution or ordinance of the council.

17. ~~He has~~ To exercise such power as may be vested in ~~him~~ the mayor by ordinance of the city or town, in and over all places within five miles of the boundaries of the city or town, for the purpose of enforcing the health and quarantine ordinances and regulations thereof."

Section 2. Section 11-1821, R.C.M. 1947, is amended to read as follows:

"11-1821. Payment of police reserves. (1) Whenever any policeman or officer shall from age or disability become transferred from the active list of the police officers of any city or town to the reserve list of the city or town, ~~he~~ such person shall thereafter be paid in monthly payments from the funds in this act provided for, a sum equal to one-half the base salary, excluding overtime and payments in lieu of sick leave and annual leave he was receiving as an active officer computed on the highest salary received in

any one month during the last year of active service; provided that after completing twenty (20) years or more of active service if a policeman or officer elects to serve an additional one (1) to ten (10) years then the payment from the police reserves fund shall be increased at the rate of one per cent (1%) per year of additional service up to a maximum of sixty per cent (60%) of the last year's average salary received as a monthly compensation for services as an active member of the police department.

(2) Upon the death of any policeman or any officer on the active list or reserve list of any city or town, ~~his~~ the surviving dependent ~~widow, if there be such a surviving widow~~ of the policeman or officer, shall, as long as ~~she remains his his widow~~ such spouse does not remarry, be paid, from the police reserves' fund, a sum equal to one-half the base salary, excluding overtime and payments in lieu of sick leave and annual leave ~~he~~ the decedent was receiving as an active officer computed on the highest salary received in any one month during the last year of active service prior to the date of ~~his demise~~ death or prior to the date the policeman or officer passes to the police reserve list. No surviving ~~widow~~ spouse shall be entitled to payments under the provisions of this act ~~if she be~~ who is fifteen (15) years younger than ~~her husband~~ the deceased spouse, unless ~~she~~ he shall have been married to and living with ~~her~~

~~husband~~ the deceased spouse for ten (10) years immediately preceding his death. If the policeman or officer leaves a dependent minor child, or dependent minor children, then upon the death of the policeman or officer, providing ~~he leaves~~ there is no surviving ~~widow~~ spouse, or upon the death or remarriage of ~~his widow~~ the surviving spouse, or if ~~his widow~~ the surviving spouse be fifteen (15) years younger than ~~her husband~~ the decedent and shall not have been married to and living with ~~her husband~~ the decedent for the ten (10) years immediately preceding his death, then his surviving dependent minor child, or dependent children, collectively, if there be more than one (1) dependent minor child, shall be paid the same monthly payments as are herein provided to be paid to the surviving ~~widow~~ spouse, until the minor child, or minor children, reach the age of eighteen (18) years or shall have married; provided further that the payments herein provided for to be made to the beneficiaries shall not be made if the payments require an increase in the millage tax levy provided by section 11-1823, R.C.M. 1947.

(3) Payments as herein provided for, to be made to the minor child or children of police officers shall be paid to the duly appointed, qualified and acting guardian of the child or children, for the use of the minor, until the minor shall have reached the age of eighteen (18) years or shall have married and in case there is more than one (1) minor

child, upon each child reaching the age of eighteen (18) years the prorata payments to the child shall cease and shall be made to the remaining minor child or children until the youngest child reaches the age of eighteen (18) years or is married.

(4) The term "policeman," or "police officer," includes all those on the reserve list, as well as "active police," "police officer," and "patrolman," or any of those terms.

(5) Before any payments are made to any member of the police reserve, the governing body of the city shall, forthwith, determine the eligibility of such member for payments and the amount thereof in accordance with the terms of this section."

Section 3. Section 11-1911, R.C.M. 1947, is amended to read as follows:

"11-1911. Source of fund. The disability and pension fund of the fire department relief association of such city or town shall consist of all bequests, fees, gifts, emoluments or donations given or paid to such fund, or any of its members, except as otherwise designated by the donor, and a monthly fee which shall be paid into the fund by each paid member and part-paid member of said fire department relief association amounting to six per cent (6%) of ~~his~~ the member's regular monthly salary, the proceeds of a tax levy

as provided by section 11-1912, R.C.M. 1947, and all moneys received from the state of Montana as provided for by section 11-1919, R.C.M. 1947, and the interest of any portion of such fund.

Any such paid or part-paid fireman shall be entitled to a return, in lump sum, without interest, of all monthly contributions made by ~~his~~ the fireman to such funds, within sixty (60) days of ~~his~~ permanent separation from service in the fire department of such city, town or municipality, except for separation by reason of retirement, death or disability, which would otherwise qualify such separated fireman, ~~his widow~~ the surviving spouse or orphans, to benefits or allowances from such fire department relief association."

Section 4. Section 11-1915, R.C.M. 1947, is amended to read as follows:

"11-1915. Benefits, allowed for, how allowed, and how paid. Every fire department relief association may allow to its members benefits for the following causes, as provided by law.

1. A service pension to a member who, by reason of service, has become entitled to a service pension.

2. To a member who has become maimed or disabled for life in line of duty.

3. To a member who has suffered injury in line of

duty.

4. To a member who has contracted sickness in line of duty.

5. Funeral expenses of a member.

6. Pensions to the ~~widow~~ surviving spouse, orphan or orphans of a deceased member.

All applications for relief shall be referred to the board of trustees. All claims shall be referred to the board of trustees for allowance or disallowance and claimant shall have the right to appeal to the association in the event ~~his~~ the claim be disallowed. All claims shall be paid by warrant, duly authorized, drawn by the secretary, and countersigned by the president of the association, and on presentation thereof, the treasurer of the association shall pay the same out of the said pension and disability fund."

Section 5. Section 11-1927, R.C.M. 1947, is amended to read as follows:

"11-1927. Pensions to ~~widows~~ surviving spouses and orphans. Each and every fire department relief association, organized and existing under the laws of this state, shall pay to the ~~widow~~ surviving spouse or orphans of a deceased member of said association, who, on the date of ~~his decease~~ death, was an active member of the fire department in the city or town wherein such association has been formed, or had elected to retire from active service of said fire

department and receive a "service pension" as provided for by section 11-1925, or prior to ~~his decease~~ death had suffered a sickness or injury, and was receiving or was qualified to receive a "disability pension," as provided by section 11-1926, out of any money in relief association's "disability and pension fund," a monthly pension in an amount which shall be equal to one-half (1/2) of the monthly compensation last received by such deceased member for ~~his~~ services rendered as an active member of the fire department in the city or town wherein such association has been formed. However, effective July 1, 1963, and after completing twenty (20) years or more of active service and attaining the age of fifty (50) years, a member elects to serve an additional one (1) to ten (10) years, then the pension shall be increased at the rate of one per cent (1%) per year of such additional service, up to a maximum of sixty per cent (60%) of the last month's salary received as a monthly compensation for his services as an active member of said fire department. However, the monthly compensation paid to a ~~widow~~ surviving spouse or orphan of an active member who becomes deceased after July 1, 1973, or an active member who elects to retire after July 1, 1973, shall in no event become less than one-half (1/2) the regular monthly salary paid to a confirmed active fireman of that city as provided each and every year in the annual budget of that

city. Provided, that said pension shall be paid to the within named ~~widow~~ surviving spouse only so long as ~~she~~ such spouse remains unmarried, and further provided, that a ~~widow~~ surviving spouse of a deceased fireman shall not be entitled to the pension, provided for by this act, in those cases where the marriage was consummated after the fireman had elected to retire from active service and received a "service pension" as provided for by section 11-1925; or in those cases where the marriage was consummated after the fireman had qualified and was receiving a "disability pension" as provided for by section 11-1926. Provided further, that the pension herein provided for shall not be paid to the orphans of deceased firemen after they have attained the age of eighteen (18) years. In case of volunteer firemen such pension shall in no event exceed the sum of seventy-five ($75) dollars per month."

Section 6. Section 11-1928, R.C.M. 1947, is amended to read as follows:

"11-1928. Use of disability and pension fund of fire department relief association. Said fund shall not be used for any other purpose whatsoever, other than for the payment of the following:

1. A service pension to a member who, by reason of service, has become entitled to a service pension.

2. A pension to a member who has become permanently

maimed or disabled in line of duty.

3. A benefit or allowance to a member who has suffered a permanent disabling injury in line of duty.

4. A benefit or allowance to a member who has contracted a permanent disabling sickness in line of duty.

5. To defray the funeral expenses of a member, in an amount not to exceed, however, the sum of seven hundred fifty dollars ($750).

6. Payment to the ~~widow~~ surviving spouse, orphan or orphans of a deceased member as provided by law.

7. The payment of premiums upon a blanket policy of insurance covering the members of such fire department and providing for payment of compensation in case of death or injury to such member or any of them.

8. The return of employee contribution as provided by law.

9. All claims shall be paid by warrant duly authorized, drawn by the secretary, and countersigned by the president of the association and on presentation thereof, the treasurer shall pay the same out of the said disability and pension fund."

Section 7. Section 11-2025, R.C.M. 1947, is amended to read as follows:

"11-2025. Payment of a claim -- beneficiaries of decedent. 1. Upon receipt of a claim under subparagraphs

one (1), two (2), three (3) and four (4), or any thereof, of section 11-2022, by the industrial accident board, if the same is found to be in compliance with the provisions of subsection one (1) of section 11-2024, the board must order the allowance thereof, and pay the same by warrants drawn upon the volunteer firemen's fund to the order of the attending physician or surgeon, attending nurse, and hospital.

2. All payments under the volunteer firemen's pension plan shall be approved by the public employees' retirement system and paid by warrants drawn upon the earmarked revenue fund, payable to the order of the individual qualified volunteer fireman; provided, however, that in the event of the death of any otherwise qualified volunteer fireman before reaching the age of fifty-five (55) years, or in the event of the death of any such volunteer fireman after ~~he has qualified~~ qualifying for payments hereunder but before ~~he has received~~ receiving payments hereunder totaling at least two thousand dollars ($2,000); and if such deceased volunteer fireman shall have left a ~~widow~~ surviving spouse, then such pension shall be paid or continue to be paid to ~~said widow~~ the surviving spouse by a warrant or warrants drawn upon the earmarked revenue fund and payable to the order of ~~said widow~~ the surviving spouse, until ~~her~~ such spouse's death or remarriage; or if said deceased volunteer

fireman shall have left no ~~widow~~ surviving spouse but shall have left a child or children under the age of eighteen (18) years, then such pension shall be paid or continue to be paid to the guardian or other person having custody of the said child or children, until the youngest child shall reach the age of eighteen (18) years. Provided, further, that in the event of such payments after the death of a volunteer fireman, to or for ~~his widow~~ a surviving spouse or children, then such pension shall terminate, and no further payments shall be made hereunder, when a total of two thousand dollars ($2,000) shall have been paid upon such pension, including any payments made to the volunteer fireman before his death. If such deceased volunteer fireman shall leave neither ~~widow~~ surviving spouse nor child under the age of eighteen (18) years, then his pension shall terminate at the end of the month prior to the month in which his death occurs."

Section 8. Section 11-3112, R.C.M. 1947, is amended to read as follows:

"11-3112. Nomination of candidates--primary election. (1) Candidates to be voted for at all general municipal elections at which a mayor or councilmen are to be elected under the provisions of this act shall be nominated by a primary election, and no other names shall be placed upon the general ballot except those selected in the manner

hereinafter prescribed. The primary election for such nominations shall be held on the second Monday preceding the municipal election. The judges of election appointed for the municipal election shall be the judges of the primary election, and it shall be held at the same places, as far as possible, and the polls shall be opened and closed at the same hours, with the same clerks as are required for said general municipal election.

(2) Any qualified elector of said city who is the owner of any real estate situated therein, desiring to become a candidate for mayor or councilman, shall, at least ten days prior to said primary election, file with the city clerk a statement of such candidacy in substantially the following form:

State of Montana,

County of ....

I, ..., being first duly sworn, say that I reside at .... street, city of ...., county of .... state of Montana; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or councilman) to be voted upon at the primary election to be held on the .... Monday of ...., 19.., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(Signed) ....

Subscribed and sworn to (or affirmed) before me by .... on this .... day of ...., 19...

(Signed) ....

and shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

(3) Petition accompanying nominating statement.

The undersigned, duly qualified electors of the city of ...., and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed in the ballot as a candidate for nomination for (name of office) at the primary election to be held in such city on the .... Monday of ...., 19... We further state that we know him/HER to be a qualified elector of said city and a ~~man~~ PERSON of good moral character, and qualified, in our judgment, for the duties of such office.

Names of qualifying electors. Number. Street.

.....

.....

(4) Each signer of a nomination paper shall sign but one such nomination paper for the same office, except where

more than one officer is to be elected to the same office, in which case he may sign as many nomination papers as there are officers to be elected, and only one candidate shall be petitioned for or nominated in the same nomination paper.

(5) Immediately upon the expiration of the time of filing the statements and petitions for candidates, the said city clerk shall cause to be published for three consecutive days in all the daily newspapers published in the city, in proper form, the names of the persons as they are to appear upon the primary ballots, and if there be no daily newspaper, then in two issues of any other newspapers that may be published in said city; and the said clerk shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. Upon the said ballot the names of the candidates for mayor, arranged alphabetically, shall first be placed, with a square at the left of each name, and immediately below the words, "Vote for one." Following these names, likewise arranged in alphabetical order, shall appear the names of the candidates for councilmen, with a square at the left of each name, and below the names of such candidates shall appear the words, "Vote for (giving the number of persons to be voted for)." The ballot shall be printed upon plain substantial, white paper, and shall be headed:

Candidates for nomination for mayor and councilmen of

the city of .... at the

Primary Election;

but shall have no party designation or mark whatever. The ballots shall be in substantially the following form: (Place a cross in the square preceding the names of the parties you favor as candidates for the respective positions).

Official Primary Ballot.

Candidates for nomination for mayor and councilmen of the city of .... at the

Primary Election.

For Mayor.

(Name of candidate.)

(Vote for one.)

For councilman.

(Name of candidate.)

Vote for .... (Giving number to be voted for).

Official ballot attest:

(Signature)....

City Clerk.

(6) Having caused said ballots to be printed, the said city clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of such voters registered in such polling place at the last general municipal election. The persons who are qualified to vote at the general election shall be qualified to vote at such

primary election and any person offering to vote may be orally challenged by any elector of the city upon any or all of the grounds set forth and specified in section 23-1220 of these codes, and the provisions of sections 23-1221 to 23-1228, inclusive, of these codes shall apply to all challenges made at such election. Judges of election shall immediately upon the closing of the polls count the ballots and ascertain the number of votes cast in such precinct for each of the candidates for mayor and councilman, and make return thereof to the city clerk upon the proper blanks to be furnished by the city clerk within six hours of the closing of the polls. On the day following the primary election the city clerk shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers in said city, at least once, the result thereof. Said canvass by the city clerk shall be publicly made.

(7) If a mayor is to be elected at such municipal election, the two persons receiving the highest number of votes shall be the candidates for mayor. If one councilman is to be elected at such municipal election, the two persons receiving the highest number of votes shall be the candidates for councilmen. If two councilmen are to be elected at such general municipal election, the four persons receiving the highest number of votes shall be the

candidates for councilmen, and if three councilmen are to be elected at such municipal election, the six persons receiving the highest number of votes shall be the candidates for councilmen, and if four councilmen are to be elected at such general municipal election, the eight persons receiving the highest number of votes shall be candidates for councilmen at such general election, and these shall be the only candidates for mayor and councilmen at such general election.

(8) All electors of cities under this act, who, by ordinances governing cities incorporated under the general municipal incorporation law, or by charter, would be entitled to vote for the election of officers at any general municipal election in such cities, shall be qualified to vote at all elections under this act; and the ballots to be used at such general municipal election shall be in the same general form as for such primary elections so far as applicable, and in all elections in such cities the election precincts, voting places, method of conducting the elections, canvassing of votes, and announcing the results shall be the same as by law provided for the election of officers in such cities so far as the same are applicable and not inconsistent with the provisions of this act.

(9) Every person who has been declared elected mayor or councilman, shall, within ten days thereafter, take and

file with the city clerk ~~his~~ an oath of office in the form and manner provided by law, and shall execute and give sufficient bond to the municipal corporation in the sum of ten thousand dollars, conditioned for the faithful performance of the duties of ~~his~~ the office, which bond shall be approved by the judge of the district court of the county in which such city is situated, and filed with the clerk and recorder of the county in which such city is situated."

Section 9. Section 11-3215, R.C.M. 1947, is amended to read as follows:

"11-3215. Nomination of candidates--primary election. (1) Candidates to be voted for at all general municipal elections at which commissioners are to be elected under the provisions of this act shall be nominated by a primary election, and no other names shall be placed upon the general ballot except those nominated in the manner hereinafter prescribed. The primary election for such nominations shall be held on the last Tuesday of August of the odd-numbered years.

(2) Any qualified elector of the municipality, who is the owner of real estate situated therein to the value of not less than one thousand dollars, desiring to become a candidate for commissioner, shall, at least thirty-five (35) days prior to said primary election, file with the clerk of

the commission a statement of such candidacy in substantially the following form:

State of Montana,

County of ....

I,...., being first duly sworn, say that I reside at .... street, (city or town) of ...., county of ...., state of Montana; that I am a qualified voter therein; that I am a candidate for nomination to the office of commissioner to be voted upon at the primary election to be held on the last Tuesday of August, 19.., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(Signed) ....

Subscribed and sworn to (or affirmed) before me by .... on this .... day of ...., 19..

(Signed) ....

And shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

(3) Petition Accompanying Nominating Statement.

The undersigned duly qualified electors of the (city,

town) of...., and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination to the office of commissioner at the primary election to be held on the last Tuesday of August, 19... We further state that we know him/her to be a qualified elector of said (city, town), and a ~~man~~ person of good moral character, and qualified, in our judgment, for the duties of such office, and we individually certify that we have not signed similar petitions greater in number than the number of commissioners to be chosen at the next general municipal election.

Names of Qualifying Electors Number Street

(Space for Signatures.)

State of Montana,

County of ....

...., being duly sworn, deposes and says, that he knows the qualifications and residence of each of the persons signing the appended petition, and that such signatures are genuine, and the signatures of the persons whose names they purport to be.

(Signed) ....

Subscribed and sworn to before me this .... day of ...., 19...

.... (Notary Public),

This petition, if found insufficient, shall be returned to .... at No. .... Street, ..., Montana.

(4) Immediately upon the expiration of the time of filing the statements and petition for candidates, the clerk of the commission shall cause to be published for three consecutive days in all the daily newspapers published in the municipality in proper form, the names of the persons that are to appear upon the primary ballots, and if there be no daily newspaper, then in two issues of any other newspaper that may be published in said municipality, and the said clerk shall thereupon cause the primary ballots to be printed and authenticated with a facsimile of his signature.

(5) In the event the number of legally qualified candidates for the office of commissioner at such primary election does not exceed twice the number of vacancies in the commission to be filled, no municipal primary election for the nomination of candidates for the office of commissioner shall be held in said city for said year and such legally qualified candidates shall be deemed duly nominated and shall be placed on the general ballot."

Section 10. Section 16-2702, R.C.M. 1947, is amended to read as follows:

"16-2702. Duties of sheriff. The sheriff must:

1. Preserve the peace;

2. Arrest and take before the nearest magistrate, for examination, all persons who attempt to commit or have committed a public offense;

3. Prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his knowledge;

4. Perform duties of humane officer within ~~his~~ the county with reference to the protection of dumb animals;

5. Attend all courts, except justices and police courts, at their respective terms or sessions held within ~~his~~ the county, and obey their lawful orders and directions;

6. Command the aid of as many ~~male~~ inhabitants of his county as ~~he~~ may ~~think~~ be necessary in the execution of these duties;

7. Take charge of and keep the county jail and the prisoners therein;

8. Endorse upon all notices and process the year, month, day, hour, and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper, and time of reception;

9. Serve all process or notices in the manner prescribed by law;

10. Certify ~~under his hand~~ in writing upon the process of notices the manner and time of service, or, if he fails

to make service, the reasons of ~~his~~ this failure, and return the same without delay."

Section 11. Section 17-504, R.C.M. 1947, is amended to read as follows:

"17-504. Injuries inflicted in a duel -- support of family of injured person. If any person slays or permanently disables another person in a duel in this state, the slayer must provide for the maintenance of the ~~widow or wife~~ spouse of the person slain or permanently disabled, and for the minor children, in such manner and at such cost, either by aggregate compensation in damages to each, or by a monthly, quarterly, or annual allowance, to be determined by the court."

Section 12. Section 17-807, R.C.M. 1947, is amended to read as follows:

"17-807. What cannot be specifically enforced. The following obligations cannot be specifically enforced:

1. An obligation to render personal service, or to employ another therein;

2. An agreement to marry or live with another;

3. An agreement to submit a controversy to arbitration;

4. An agreement to perform an act which the party has not power to perform lawfully when required to do so;

5. An agreement to procure the act or consent of the

~~wife~~ spouse of the contracting party, or of any other third person; or

6. An agreement, the terms of which are not sufficiently certain to make the precise act which is to be done clearly ascertainable."

~~Section 13. Section 23-3405, R.C.M. 1947, is amended to read as follows:~~

~~"23-3405. Organization of committee -- meeting -- county convention to elect delegates and alternates to state convention. (1) The committee shall meet prior to the state convention of its political party and organize by electing a chairman and one (1) or more vice chairmen. The chairman or and first vice chairman shall be a woman of opposite sex. They shall elect a secretary and other officers as are proper. It is not necessary for the officers to be precinct committeemen committeepersons.~~

~~(2) The committee may select managing or executive committees and authorize subcommittees to exercise any and all powers conferred upon the county, city, state, and congressional central committees by this act.~~

~~(3) The chairman of the county central committee shall call the central committee meeting and not less than four (4) days before the date of the central committee meeting shall publish the call in a newspaper published at the county seat and mail a copy of the call to each precinct~~

~~committeeman committeeperson. If party rules permit the use of a proxy, no proxy shall be recognized unless held by an elector of the precinct of the committeeman committeeperson executing it.~~

~~(4) The county chairman of the party shall preside at the county convention. No person other than a duly elected or appointed committeeman committeeperson or officer of the committee is entitled to participate in the proceedings of the committee.~~

~~(5) If a committeeman committeeperson is absent, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent the precinct in the convention.~~

~~(6) The county convention shall elect delegates and alternate delegates to the state convention under rules of the state party. The chairman and secretary of the county convention shall issue and sign certificates of election of the delegates."~~

Section 13. Section 23-4727, R.C.M. 1947, is amended to read as follows:

"23-4727. Expenditure by or for candidate for office. No sums of money shall be paid, and no expenses authorized or incurred, by or on behalf of any candidate to be paid by ~~him~~ such candidate, except such as ~~he may pay~~ may be paid to the state for printing, as herein provided, in ~~his~~ a

campaign for nomination to any public office or position in this state, in excess of fifteen per cent of one year's compensation or salary of the office for which ~~he~~ the person is a candidate; provided, that no candidate shall be restricted to less than one hundred dollars in ~~his~~ a campaign for such nomination. No sums of money shall be paid, and no expenses authorized or incurred, contrary to the provisions of this act, for or on behalf of any candidate for nomination. For the purposes of this law, the contribution, expenditure, or liability of a descendant, ascendant, brother, sister, uncle, aunt, nephew, niece, ~~wife~~ spouse, partner, employer, employee, or fellow official or fellow employee of a corporation shall be deemed to be that of the candidate ~~himself~~."

Section 14. Section 23-4728, R.C.M. 1947, is amended to read as follows:

"23-4728. Limitation of expenditures by candidate — by party organizations — by relatives. No sums of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this state, except such as ~~he~~ the candidate may contribute towards payment for ~~his~~ the political party's or independent statement in the pamphlet herein provided for, to be paid by ~~him~~ such candidate in his campaign for election, in excess of ten per

cent of one year's salary or compensation of the office for which ~~he~~ the candidate is nominated; provided, that no candidate shall be restricted to less than one hundred dollars. No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any political party or organization to promote the success of the principles or candidates of such party or organization, contrary to the provisions of this act. For the purposes of this act, the contribution, expenditure, or liability of a descendant, ascendant, brother, sister, uncle, aunt, nephew, niece, ~~wife~~ spouse, partner, employer, employee, or fellow official or fellow employee of a corporation, shall be deemed to be that of the candidate ~~himself~~."

Section 15. Section 35-409, R.C.M. 1947, is amended to read as follows:

"35-409. Definitions. The following terms, whenever used or referred to in this act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Local agency" means any county, city, town, school district, or housing authority of the state.

(2) "Housing" means any temporary war or veterans' housing acquired from the United States of America under the terms and provisions of the Housing Act of 1950, being Title II, Chapter 94, Public Law 475, of the laws of the

Eighty-first Congress, Second Session, for the purpose of providing temporary housing for veterans and for families of servicemen, located within the boundaries of any local agency.

(3) "Veterans" includes, in so far as permitted by federal law, any person who has served in the military or naval forces of the United States and has been discharged or released therefrom under conditions other than dishonorable.

(4) "Families of servicemen" includes, in so far as permitted by federal law, the families of any person who is serving in the military or naval forces of the United States, and the unmarried ~~widow~~ surviving spouse of a deceased veteran.

(5) "Families" is limited to the spouse and legal dependents who are members of the household."

Section 16. Section 39-108, R.C.M. 1947, is amended to read as follows:

"39-108. Acknowledgment by married ~~women.~~ persons. The acknowledgment of a married ~~woman~~ person to an instrument purporting to be executed by ~~her~~ such person must be taken the same as that of any other person."

Section 17. Section 39-109, R.C.M. 1947, is amended to read as follows:

"39-109. Conveyance by married ~~woman~~ person -- acknowledgment. A conveyance by a married ~~woman~~ person has

the same effect as if ~~she~~ such person were unmarried, and may be acknowledged in the same manner."

Section 18. Section 39-113, R.C.M. 1947, is amended to read as follows:

"39-113. Form of certificate of acknowledgment by married ~~woman.~~ person. The certificate of acknowledgment by a married ~~woman~~ person must be substantially in the form prescribed in section 39-111."

Section 19. Section 40-3312, R.C.M. 1947, is amended to read as follows:

"40-3312. Application for license. (1) Application for an agent or solicitor license shall be made to the commissioner by the applicant, and be signed and sworn to by the applicant before a notary public or other person authorized by law to take acknowledgments of deeds.

(2) The commissioner shall designate and prepare forms for application for license which shall require full answers to such questions as may reasonably be necessary to determine the applicant's identity, residence, personal history, business record, experience and training in insurance, purpose for which the license is to be used and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

(3) If for an agent's license, the application shall

state the kinds of insurance proposed to be transacted, and be accompanied by written appointment of the applicant as agent by an authorized insurer, subject to issuance of the license.

(4) If for a solicitor's license, the application shall be accompanied by written appointment of applicant as solicitor by a licensed agent, subject to issuance of the license.

(5) If the applicant for an agent license is a firm or corporation, the application shall show, in addition, the names of all members, officers and directors, and shall designate each individual who is to exercise the powers to be conferred by the license upon the firm or corporation. Each such individual so designated shall furnish information as to himself, as part of the application, as though for an individual license.

(6) If the applicant for an agent license is an agents' association pursuant to section 40-3311, the application shall show the names and residence addresses of the association's officers and trustees.

(7) If for license as either agent or solicitor, the application shall also show whether applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any such license was ever refused, suspended or revoked; whether any insurer, general

agent or agent (in the case of a solicitor application) claims applicant to be indebted to it, and if so the details thereof and the defenses, if any, of the applicant thereto; whether applicant ever had an agency contract canceled, and the facts thereof; and if applicant is ~~a~~ married, ~~woman,~~ like information with respect to ~~her husband~~ the applicant's spouse.

(8) The commissioner shall require as part of the application for license the certificate of an officer or representative of the insurer proposed to be represented (in the case of applicants for license as agent), or of the proposed employing agent (in the case of applicants for license as solicitor) as to whether the applicant is known to ~~him~~ such officer or representative, whether the insurer or agent has investigated the character and business record of the applicant and the uses to be made of the license, if granted, and his opinion, based on such investigation, as to applicant's trustworthiness and competence and whether the applicant will use the license principally for the purpose of insuring ~~his~~ the applicant's own risks or interests and those of ~~his~~ the applicant's relatives or employer.

(9) All such applications shall be accompanied by the applicable license fee, appointment of agent fee where applicable, examination fee where required under section 40-3313, all in the respective amounts stated in section

40-2726 (fees and licenses)."

Section 20. Section 40-4902, R.C.M. 1947, is amended to read as follows:

"40-4902. "Benevolent association" defined. (1) Any corporation, association or society, or by whatever name called, which issues any certificate, policy, membership agreement, or makes any promise or agreement with its members, whereby, upon decease of a member, any money or other benefit, charity, aid or relief is to be paid, provided or rendered by such corporation, association or society to his legal representatives, or to the beneficiary designated by him, which money, benefit, charity, aid or relief is derived from voluntary donations, or from admission fees, dues or assessments, or any of them collected or to be collected from the members thereof, or members of a class therein, or interest or accretions thereon, or accumulations thereof; and wherein the money or other benefit, charity, aid or relief, so realized, is applied to or accumulated for the uses and purposes herein specified, and/or the uses of such corporation, association or society, and/or the expenses of management and prosecution of its business, shall be deemed to be a "benevolent association" for the purposes of this chapter.

(2) The definition of benevolent association in subsection (1) above is not applicable to:

(a) Burial or death benefits, annuities, endowments or any other benefit payments of any legal reserve life or disability insurer, or of any labor union, railroad brotherhood, or lodge having as a primary business the improvement of working conditions; or

(b) Any ~~ladies~~ auxiliaries to any labor union, railroad brotherhood or lodge referred to in subdivision (a) above; or

(c) The benevolent plans within fraternal orders if limited to members and if the plan is not the principal object for the formation or continuance of the fraternal order."

Section 21. Section 40-5305, R.C.M. 1947, is amended to read as follows:

"40-5305. Exempted societies. (1) Nothing contained in this chapter shall be so construed as to affect or apply to:

(a) Grand or subordinate lodges of societies, orders or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

(b) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, and the ~~ladies' societies or ladies'~~ auxiliaries to such orders, societies or associations;

(c) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars ($400) or disability benefits of not more than three hundred fifty dollars ($350) to any person in any one year, or both; or

(d) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars ($400) or for disability benefits of not more than three hundred fifty dollars ($350) to any one person in any one year, or both.

(2) Any such society or association described in clauses (c) or (d), above, which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph (d) which has more than one thousand (1,000) members, shall not be exempted from the provisions of this chapter but shall comply with all requirements thereof.

(3) No society which, by the provisions of this section, is exempt from the requirements of this chapter, except any society described in paragraph (b), above, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

(4) Every society which provides for benefits in case

of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this chapter except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

(5) The commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this chapter.

(6) Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this state."

Section 22. Section 41-1119, R.C.M. 1947, is amended to read as follows:

"41-1119. Seats for ~~female~~ employees. Every employer in any manufacturing, mechanical, or mercantile establishment, laundry, hotel, or restaurant, or other establishment employing any ~~female~~ person, shall provide suitable seats for all ~~female~~ employees and shall permit them to use such seats when they are not employed in the active duties of their employment."

Section 23. Section 41-1506, R.C.M. 1947, is amended to read as follows:

"41-1506. ~~Wife~~ Spouse must join in assignment of wages — acknowledgment. No assignments of ~~his~~ wages or salary to a wage broker by a married ~~man~~ person, who shall have a ~~wife~~ spouse residing in this state, shall be valid or enforceable without the consent of ~~his wife~~ such spouse, evidenced by ~~her~~ the spouse's signature to said assignment, executed and acknowledged before a notary public or other officer empowered to take acknowledgments, and no wage broker or person connected with ~~him~~ a wage broker, directly or indirectly, shall be authorized to take any such acknowledgments."

Section 24. Section 45-511, R.C.M. 1947, is amended to read as follows:

"45-511. Who deemed owners. Every person, including guardians of minors, married ~~women~~ persons, and any company, association, or corporation not tenants or lessees, for whose use, benefit, or enjoyment any property, building, structure, or improvement mentioned in this chapter is constructed, repaired, or altered, is deemed the owner thereof for the purposes of this chapter."

Section 25. Section 45-603, R.C.M. 1947, is amended to read as follows:

"45-603. Priority of wages in case of death of employer. In case of the death of any employer, the wages of each miner, mechanic, ~~salesman~~ salesperson, clerk, servant,

and laborer for services rendered within four (4) months next preceding the death of the employer, in the amount actually owed, rank in priority next after the funeral expenses, expenses of the last sickness, the charges and expenses of administering upon the estate, and the allowance to the ~~widow~~ surviving spouse and infant children, and must be paid before other claims against the estate of the deceased person."

Section 26. Section 45-808, R.C.M. 1947, is amended to read as follows:

"45-808. Owner defined. Every person, including guardians or minors, married ~~women~~ persons, and any company, firm, association, or corporation for whose use or benefit the grain or other crops mentioned herein are threshed, or the services rendered or labor performed, is deemed the owner thereof for the purposes herein mentioned."

Section 27. Section 59-519, R.C.M. 1947, is amended to read as follows:

"59-519. Appointment of relative to office of trust or emolument unlawful. It shall be unlawful for any person or any member of any board, bureau or commission, or employee at the head of any department of this state or any political subdivision thereof to appoint to any position of trust or emolument any person ~~or persons~~ related ~~to him or them~~ or connected ~~with him or them~~ by consanguinity within the

fourth degree, or by affinity within the second degree; except that the provisions of this section shall not apply to sheriffs in the appointment of ~~females~~ persons as cooks and/or ~~matrons~~ attendants. It shall further be unlawful for any person or any member of any board, bureau or commission, or employee of any department of this state, or any political subdivision thereof to enter into any agreement or any promise with other persons or any members of any boards, bureaus or commissions, or employees of any department of this state or any of its political subdivisions thereof to appoint to any position of trust or emolument any person or persons related to them or connected with them by consanguinity within the fourth degree, or by affinity within the second degree."

Section 28. Section 63-107, R.C.M. 1947, is amended to read as follows:

"63-107. Rules for determining the existence of a partnership. In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by section 63-208 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership,

whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that ~~he~~ such person is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

(a) As a debt by installments or otherwise,

(b) As wages of an employee or rent to a landlord,

(c) As an annuity to a ~~widow~~ surviving spouse or representative of a deceased partner,

(d) As interest on a loan, though the amount of payment vary with the profits of the business,

(e) As the consideration for the sale of a good will of a business or other property by installments or otherwise."

Section 29. Section 63-402, R.C.M. 1947, is amended to read as follows:

"63-402. Nature of a partner's right in specific partnership property. (1) A partner is co-owner with ~~his~~ the other partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this act and to any agreement between the partners, has an equal right with ~~his~~ the other partners to possess specific partnership property for partnership purposes~~,~~ but ~~he~~ has no right to possess such property for any other purpose without the consent of ~~his~~ the other partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner, ~~his~~ that partner's right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, ~~when his~~ in which case such deceased partner's right in such property vests in ~~his~~ the deceased's legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) ~~A partner's right in specific partnership~~ PROVIDED THE PROCEEDS OF A DECEASED PARTNER'S INTEREST ARE INCLUDED IN THE ASSETS OF THE DECEDENT'S ESTATE SUCH property is not subject to ~~dower, courtesy,~~ A LIEN OF the surviving ~~spouse's~~ SPOUSE FOR HIS OR HER elective share, OR A LIEN FOR, or allowances to ~~widows~~ surviving spouses, heirs, or next of kin."

Section 30. Section 64-209, R.C.M. 1947, is amended to read as follows:

"64-209. Protection of personal relations. The rights of personal relations forbid:

1. The abduction ~~of a husband from his wife, or~~ of a parent from ~~his~~ a child;

2. The abduction or enticement of a wife from her husband or a husband from his wife, of a child from a parent or from a guardian entitled to its custody, or of a servant from ~~his~~ a master;

3. The seduction of a ~~wife~~ spouse, ~~daughter~~ child, orphan, ~~sister,~~ or servant;

4. Any injury to a servant which affects ~~his~~ the servant's ability to serve ~~his~~ the master."

Section 31. Section 67-903, R.C.M. 1947, is amended to read as follows:

"67-903. Married ~~women~~ persons. A married ~~woman~~ person may execute a power during ~~her~~ marriage, without the

concurrence of ~~her husband~~ the spouse, unless otherwise prescribed by the terms of the power."

Section 32. Section 67-904, R.C.M. 1947, is amended to read as follows:

"67-904. Married ~~women.~~ persons. No power can be executed by a married woman before she attains her majority which could not be executed by a married man before he attains his majority.

Section 33. Section 67-1603, R.C.M. 1947, is amended to read as follows:

"67-1603. Grant by married ~~woman~~ person — how acknowledged. No estate in the real property of a married ~~woman~~ person passes by any grant purporting to be executed or acknowledged by ~~her~~ such person, unless the grant or instrument is acknowledged by ~~her~~ the grantor in the manner prescribed by sections 39-108 and 39-113."

Section 34. Section 71-120, R.C.M. 1947, is amended to read as follows:

"71-120. Burial of deceased military service men and women. (1) It shall be the duty of the board of commissioners of each county in this state to designate some proper person in the county, who shall be known as veterans' burial supervisor, preferably an honorably discharged service man or woman, whose duty it shall be to cause to be decently interred the body of any honorably discharged

service man or woman, who shall have served in any branch of the armed services of the United States and who may hereafter die or any service man or woman who died while in service during any declared or undeclared war, or ~~female~~ resident of the Montana veterans' home, who may hereafter die. Such burial shall not be made in any burial grounds or cemetery, or in any portion of any burial grounds or cemetery, used exclusively for the burial of pauper dead.

(2) The expense of burial shall be two hundred fifty dollars ($250), to be paid by the county commissioners of the county in which the deceased was an actual bona fide resident at the time of death.

(3) The benefits hereof shall not be available in the case of any decedent whose executor, administrator or heirs waive the benefits.

(4) That the expense of each burial of a ~~female~~ resident of the Montana veterans' home, shall not exceed the sum of two hundred fifty dollars ($250), to be paid by the county commissioners of the county in which the deceased person resided prior to ~~her~~ admittance to the Montana veterans' home.

(5) In the event any such honorably discharged person, male or female, who shall have served in the armed services of the United States, and who is a resident of the state of Montana, shall die while temporarily absent from the state

or county of ~~his~~ residence, then the provisions of this act shall apply, and the burial expenses not exceeding the amount herein specified shall be paid in the same manner as above provided.

(6) Whenever any such honorably discharged person, male or female hereinbefore described shall die at any public institution of the state of Montana, other than the state veterans' home, and burial for any cause shall not be made in the county of the former residence of the deceased, the officers of said state institution, as aforesaid, shall provide the proper burial herein prescribed except that the expense of each burial shall not exceed the sum herein allowed, which expense shall be paid by the county in which the decedent resided at the time of entry into such institution, but no such burial shall be covered by any special or standing contract whereby the cost of burial is reduced below the maximum hereinbefore fixed, to the disparagement of proper interment."

Section 35. Section 72-617, R.C.M. 1947, is amended to read as follows:

"72-617. Persons to whom free transportation may be issued. The persons to whom free tickets, free passes, free transportation, and discriminating reduced rates may be issued, furnished, or given are the following, to wit: (a) The officers, agents, employees, attorneys, physicians, and

surgeons of such common carriers of passengers; (b) to the families of the persons included in subdivision "a" hereof; (c) the general officers of any such common carriers; (d) employees of sleeping car and express car companies, and linemen of telegraph and telephone companies, railway mail service employees, post-office inspectors, customs inspectors, and immigration inspectors, newsboys and newsgirls on trains, baggage agents; (e) persons injured in wrecks, and physicians and nurses attending such persons; (f) passengers traveling with the object of providing relief in cases of railroad accident, general epidemic, pestilence, or other calamitous visitation; (g) necessary caretakers of livestock, vegetables, and fruit, including return transportation to forwarding stations; (h) the officers, agents, or regularly accredited representatives of labor organizations composed wholly of employees of railway companies; (i) inmates of homes for the reform or rescue of the vicious or unfortunate, including those about to enter and those returning home after discharge, and boards of managers, including officers and superintendents of such homes; (j) superannuated and pensioned employees, and members of their families and ~~widows~~ surviving spouse of such members; (k) employees, crippled and disabled in the service of the common carrier of passengers; (l) policemen and firemen of any city, wearing the insignia of their

office within the limits of such city; (m) ministers of religion, newspaper employees in exchange for advertising, traveling secretaries of Young Men's Christian Associations and Young Women's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; (n) indigent, destitute and homeless persons, while being transported by charitable societies or hospitals, and necessary agents, employees in such transportation; (o) school children to and from public or parochial schools; (p) the railroad commission of Montana; (q) the state fire marshal; (r) the state scale expert, and their necessary employees, while traveling on official duty.

The provisions of this act shall not be construed to prohibit the interchange of passes for the persons to whom free tickets, free passes, or free transportation may be furnished or given under the provisions of this section. Nothing in this act shall be construed to invalidate any existing contract between a street railway company and a city, where a condition of a franchise grant requires the furnishing of transportation to policemen, firemen, and officers while in the performance of official duties. All acts and parts of acts in conflict herewith are hereby repealed, provided, however, that this act shall not be construed to modify or repeal the provisions of section

72-616."

Section 36. Section 72-618, R.C.M. 1947, is amended to read as follows:

"72-618. Additional free transportation authorized. That common carriers of passengers in this state authorized by section 72-617, to issue free transportation to certain classes of persons may also issue free transportation to their furloughed employees and members of their families, to persons who have become disabled or infirm in the service of a common carrier, to members of families of persons who have become disabled or infirm in the service of any such common carrier, to families of persons killed, and ~~widows during widowhood~~ surviving spouses who have not remarried and minor children during minority, of persons who died while in the service of any such common carrier, to witnesses attending any legal investigation in which such carrier is interested, for the remains of persons who died while in the employment of a common carrier, and to ex-employees traveling for the purpose of entering the service of any such common carrier; provided that the provisions hereof shall not be construed to prohibit or make unlawful the interchange of passes for the persons to whom free transportation may be furnished under this section."

Section 37. Section 75-6701, R.C.M. 1947, is amended to read as follows:

"75-8701. Qualification of students. The university system is open to all people subject to such uniform regulations as the regents deem proper. All able-bodied ~~male~~ students of the university system may receive instruction and discipline in military tactics, the requisite arms for which shall be furnished by the state."

Section 38. Section 77-501, R.C.M. 1947, is amended to read as follows:

"77-501. Purpose of act — definitions — preference. The purpose of this act is to provide for preference of veterans, their unremarried ~~widows~~ surviving spouses, and dependents, and certain disabled civilians in appointment and employment in every public department and upon all public works of the state of Montana and of any county and city thereof.

(1) Definitions.

(a) The term "veterans" as herein used, means men and women who served in the armed forces of the United States, and who have been separated from such service upon conditions other than dishonorable, in time of war or declared national emergency as follows: the Civil War; the Spanish American War; the Philippine Insurrection; World War I, between April 6, 1917, and November 11, 1918, both dates inclusive; World War II, which term means such service between September 16, 1940, and December 31, 1946, both

dates inclusive; the Korean War, military expedition, or police action, between June 26, 1950, and January 31, 1955, both dates inclusive; and those honorably discharged veterans who have served on active military duty for more than one hundred eighty (180) days after January 31, 1955, or who were discharged or released because of a service-connected disability, including, but not limited to, those veterans serving because of the Vietnam Conflict.

(b) The term "~~widows~~ surviving spouse" as herein used means unremarried ~~widows~~ surviving spouses of veterans.

(c) The word "per centum" means per centum of the total aggregate points of the examination hereinafter referred to.

(2) Preference to appointment and employment.

In every public department and upon all public works of the state of Montana and of any county or city thereof, the following shall be preferred for appointment and employment: veterans, their ~~wives and widows~~ spouses and surviving spouses, and the other dependents of disabled veterans; disabled civilians recommended by the state rehabilitation bureau;

Provided that age, loss of limb, or other physical impairment which does not in fact incapacitate, shall not be deemed to disqualify any disabled veteran or any such disabled civilian provided he or she possesses the business

capacity, competency, and education to discharge the duties of the position involved;

Provided further that those of the above described veterans who have disabilities admitted by the veterans administration of the United States to have been incurred in service in any of said wars or military expeditions or police action, where such disabilities do not in fact incapacitate, shall be given preference in employment over other veterans.

(3) Credit for examinations.

When written or oral examinations are required for employment as above described, disabled veterans and their ~~wives~~ spouses, their unremarried ~~widows~~ surviving spouses, and other dependents of disabled veterans, shall have added to their examination ratings a credit of ten points, and all other veterans, their ~~wives~~ spouses, unremarried ~~widows~~ surviving spouses, and dependents shall have added to their examination ratings a credit of five points; provided that the fact that an applicant has claimed a veterans' credit shall not be made known to the examiners until ratings of all applicants have been recorded; after which such credits shall be added to the examination rating and the records shall show the examination rating and the veteran's credit; provided further that the benefits of this subsection are in addition to and not in derogation of the preference in

appointment and/or employment given by subsection (2) hereof.

(4) Eligibility.

That none of the benefits of this act shall accrue to any person who refused to serve on active duty in the military service to which attached, or to take up arms in the defense of the United States; provided, however, that no person, not a citizen of the United States, shall be employed by any state, city or county officer in any capacity if competent American labor is available; and provided, further, that no person who has not been a resident of Montana for at least one (1) year immediately preceding an appointment shall be entitled to such preference; provided, further, that for city or county employment, no preference will be granted unless applicant under this act is also a resident of the city or town or county in which employment is sought.

(5) Enforcement of preference.

That any person entitled to preference in this section who has applied for any appointment or employment upon public works of the state of Montana or of any county and city thereof, or in any public department of said state and who has been denied said employment or appointment and feels that the spirit of this act has been violated and that ~~he~~ such person is in fact qualified physically, mentally and

possesses business capacity, competency and education to discharge the duties of the position applied for, shall have the right to petition by verified petition the district court of the state of Montana in the county in which the work is to be performed, setting forth the facts of ~~his~~ the application, qualifications, competency and ~~his~~ such person's honorable discharge or other qualifications warranting ~~him~~ the applicant to preference under this act, and upon filing of such petition any judge in said court shall forthwith issue an order to show cause to the appointing authority directing said appointing authority to appear in said court at a specified time and place, not less than five (5) nor more than ten (10) days after the filing of said verified petition, to show cause, if any ~~he has~~ exists, why said veteran or person entitled to preference should not be employed by ~~him~~ such appointing authority and that said district court shall have jurisdiction upon the proper showings to issue its order directing and ordering said appointing authority to comply with this law in giving the preference herein provided."

Section 39. Section 77-1002, R.C.M. 1947, is amended to read as follows:

"77-1002. Duty of commission. It shall be the duty of the commission and it shall have power to establish a state-wide service for discharged veterans and their

families; to actively co-operate with state and federal agencies having to do with the affairs of veterans and their families; and to promote the general welfare of all veterans and their families. In carrying out the purposes of this act the commission may employ a director, service officers, assistants, clerks, or other personnel, all of whom must be residents of the state of Montana, prescribe their duties and fix and pay their compensation; and establish a state headquarters and such other offices as may be necessary to carry out the purposes of this act. ~~All male~~ Whenever possible, all employees of the commission shall have served in the military forces of the United States during World War I, World War II, the Korean War, or the Vietnam Conflict, and shall have been honorably discharged therefrom; ~~whenever possible female employees shall also be persons honorably discharged from service during World War I, World War II, the Korean War, or the Vietnam Conflict;~~ preference for all appointments shall be given to disabled veterans."

Section 40. Section 80-1801, R.C.M. 1947, is amended to read as follows:

"80-1801. Location and function of home — persons admitted. The institution at Columbia Falls is the "Montana Veterans' Home" and, as its primary function, provides home and subsistence for honorably discharged veterans. The department may also admit ~~wives or widows~~ spouses or

surviving spouses of honorably discharged veterans to the home if space allows."

Section 41. Section 80-1803, R.C.M. 1947, is amended to read as follows:

"80-1803. Eligibility for residence in home. To be eligible for residence in the Montana veterans' home under the regulations prescribed by the state department of institutions a person shall

(1) Be an honorably discharged veteran, or the ~~wife or widow~~ spouse or surviving spouse of a veteran, who served in the armed forces of the United States.

(2) Be an invalid and have become unable to earn a livelihood as a result of the disability.

(3) Have resided in Montana for a period of two years immediately prior to making application for admittance.

(4) Not have been convicted of a felony or of a crime involving moral turpitude.

(5) Not be an alcoholic or have a record of habitual inebriation.

~~(6) If a woman, be fifty (50) years of age or older.~~"

Section 42. Section 84-301, R.C.M. 1947, is amended to read as follows:

"84-301. Classification of property for taxation. For the purpose of taxation the taxable property in the state shall be classified as follows:

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise or succession by any person or corporation, the surface title to which has passed to or remains in another, the state department of revenue shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes and except as provided in Class Five (b) of this section, all poles, lines, transformers,

transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1 1/4) miles.

Class Three. Livestock, poultry and unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except mobile homes; and all office or hotel furniture and fixtures.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five, Class Seven or Class Eight.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock in trade, and except as such property may be included in

Class Eight.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms "moneys and credits" as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana except those within the incorporated limits of a city or town in which less than ninety-five per cent (95%) of the electric consumers and/or telephone users are served by a co-operative organization, and as to the property enumerated in this sub-section (b) within incorporated limits of a city or town in which less than ninety-five per cent (95%) of the electric consumers or users will be served by a co-operative organization, such property shall be put in Class Two.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person

whomsoever, except all perishable fruits and vegetables in farm storage and owned by the producer, and excepting livestock and poultry and the unprocessed products of both.

(d) The dwelling house, and the lot on which it is erected, owned and occupied by any resident of the state, who has been honorably discharged from active service in any branch of the armed forces, who is rated one hundred per cent (100%) disabled due to a service-connected disability by the United States veterans administration or its successors.

In the event of the veteran's death, the dwelling house, and the lot on which it is erected, so long as the ~~widow~~ surviving spouse remains unmarried and the owner and occupant of the property, shall remain within this classification.

Class Six. Property formerly included in this class is now classified by section 84-308, R.C.M. 1947.

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state department of revenue, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961, within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or

other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state department of revenue in such manner and form as may be required by said department.

Class Eight. Any improvement on real property, trailers affixed to land or mobile home belonging to any person who qualifies under any one or more of the

hereinafter set forth categories, valued at not more than seventeen thousand five hundred dollars ($17,500), which is owned or under a contract for deed, and which is actually occupied by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(2) a widower ~~sixty-five (65)~~ sixty-two (62) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(3) a widow or widower with minor or dependent children regardless of age, who qualifies under the income limitations of (4), or

(4) a recipient of retirement benefits whose income from all sources is not more than four thousand dollars ($4,000) for a single person and five thousand two hundred dollars ($5,200) for a married couple per annum. Provided, further, that one who applies for classification of property under this class must make an affidavit to the state department of revenue on a form as may be provided by the state department of revenue supplied without cost to the applicant, as to ~~his~~ income, if applicable, as to ~~his~~ retirement benefits, if applicable, or, as to ~~his~~ marital status, if applicable, and to the fact that he or she

actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Class Nine. All property not included in the eight (8) preceding classes."

Section 43. Section 84-3206, R.C.M. 1947, is amended to read as follows:

"84-3206. Laundries. Every person engaged in laundry business, other than the steam-laundry business, shall pay a license of ten dollars per quarter; provided, that this act shall not apply to ~~the women~~ persons engaged in ~~the~~ a laundry business~~,~~ where not more than two ~~women~~ persons are engaged or employed or kept at work, and said license shall be for one place of business only."

Section 44. Section 91-1304, R.C.M. 1947, is amended to read as follows:

"91-1304. Authority of unmarried ~~woman~~ person not extinguished by ~~her~~ marriage--appointment of married ~~woman~~ person. When an unmarried ~~woman~~ person appointed ~~executrix~~ personal representative marries, ~~her~~ such person's authority is not extinguished. When a married ~~woman~~ person is named as ~~executrix~~ personal representative, ~~she~~ such person may be

appointed and serve in every respect as an unmarried ~~woman~~ person."

Section 45. Section 92-707, R.C.M. 1947, is amended to read as follows:

"92-707. Compensation from what date paid. When an injured employee has no ~~wife~~ spouse, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of ~~his~~ the employee's death, no compensation shall be allowed or paid during the first week of any injury, except as may be required by the provisions of the preceding section, but if disability continues one (1) week, compensation shall be paid from the date of injury. Where the injured employee has a beneficiary or a major or minor dependent residing within the United States who would be entitled to compensation in case of ~~his~~ the employee's death, no compensation shall be paid for the first week of any injury, but if disability continues one (1) week, compensation shall be paid from the date of injury; provided, that separate benefits of medical and hospital services shall be furnished from date of injury."

Section 46. Section 92-1303, R.C.M. 1947, is amended to read as follows:

"92-1303. Definitions. Except as in this section and elsewhere in this act expressly set forth, the definitions

contained in the Workmen's Compensation Act shall apply to terms and words herein contained.

1. "Weekly wage" means the average of the weekly earnings of the employee in the employ of ~~his~~ an employer against whom compensation is awarded during the period of one year prior to the termination of ~~his~~ the employment with such employer, or during such lesser period in such year as ~~he~~ the employee has been in the employ of his employer. In case the employee is absent from employment during the period as a result of the occupational disease for which compensation is claimed, then the week or weeks in which the absence occurs shall not be included in the computation of the average weekly wage. If the period provided in this section for computation of the average weekly wage does not include four weeks, then the average weekly wage shall be such as, having regard to the previous wage of the employee, or of other employees of the same or most similar class working in the same or most similar employment in the same or neighboring locality, reasonably represents the weekly earning capacity of the disabled employee in the employment in which ~~he~~ the employee is working at the time of his disablement.

2. "Award" means the finding or decision of the board as to the amount of compensation due any disabled employee or the dependents of any deceased employee.

3. "Board" means the industrial accident board of the state of Montana.

4. "Compensation" means the payments and benefits provided in this act.

5. "Disablement" means the event of becoming physically incapacitated by reason of an occupational disease as defined in this act from performing any work for remuneration or profit. "Silicosis," as defined in this act, when complicated by active pulmonary tuberculosis, shall be presumed to be total disablement. "Disability," "disabled," "total disability," or "totally disabled" shall be synonymous with "disablement," but they shall have no reference to "partial permanent disability." Provided that in the event of death or disability due to pneumoconiosis the following shall apply:

a. If a miner who is suffering or has suffered from pneumoconiosis was employed for ten (10) years or more in one (1) or more coal mines there shall be a rebuttable presumption that ~~his~~ the pneumoconiosis arose out of such employment.

b. If a deceased miner was employed for ten (10) years or more in one (1) or more coal mines and died from a respirable disease there shall be a rebuttable presumption that ~~his~~ the death was due to pneumoconiosis.

c. If a miner is suffering or suffered from a chronic

dust disease of the lung which (1) when diagnosed by chest roentgenogram yields one (1) or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconioses by the international labor organization, (2) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (3) when diagnosis is made by other means, would be a condition which would reasonably be expected to yield results described in clause (1) or (2) if diagnosis had been made in the manner prescribed in clause (1) or (2) then there shall be an irrebuttable presumption that ~~he~~ such miner is totally disabled due to pneumoconiosis or that ~~his~~ death was due to pneumoconiosis, as the case may be.

6. The terms "employee," "workman," and "operative," as used herein, shall mean:

Every person in the service of the state, and of a county, city, town, municipal corporation, or school district, including the regular members of lawfully constituted police and fire departments of cities and towns.

Every person in the service of any employer subject to this act as hereinafter defined or to whom such employer is required to secure compensation under this act, including aliens and minors legally or illegally permitted to work for hire, but not including a person whose employment is casual

and is not in the usual course of trade, business, or occupation of the employer, and not including agricultural workers and domestic servants unless the employer shall so elect.

7. "Beneficiary" means and shall include a surviving wife or husband and a surviving child or children under the age of eighteen (18) years and an invalid child or invalid children over the age of eighteen (18) years, or if no surviving wife or husband then a surviving child or children under the age of eighteen (18) years and an invalid child or invalid children over the age of eighteen (18) years; provided, however, that no invalid child over the age of eighteen (18) years shall be considered a beneficiary unless dependent upon the decedent for support at the time of disablement.

8. "Major dependent" means if there be no beneficiary as defined in a preceding section, the father or mother, or the survivor of them, if actually dependent upon the decedent at the time of ~~his~~ the decedent's disablement, then to the extent of such dependency, not to exceed, however, the maximum compensation provided for in this act.

9. "Minor dependent" means if there be no beneficiary or major dependent as defined in the preceding section the brothers and sisters under the age of eighteen years, provided, however, that no invalid brother or invalid sister

over the age of eighteen years shall be a "minor dependent" unless actually dependent upon the decedent at the time of ~~his~~ the decedent's disablement. Minor dependents shall be awarded compensations to the extent of such dependency, not to exceed, however, the maximum compensation provided for in this act.

10. "Invalid" means one who is physically or mentally incapacitated.

11. "Child" shall include a posthumous child, a stepchild, a child legally adopted prior to the disablement, an illegitimate child legitimized prior to the disablement.

12. "Week" means six (6) working days, but includes Sundays.

13. "Wages" means the average daily wages received by the employee at the time of the disablement for the usual hours of employment in a day, and overtime is not to be considered.

14. "Wife" or "widow" means only a wife or widow living with, or legally entitled to be supported by the deceased at the time of the disablement.

15. "Husband" or "widower" means only a husband or widower ~~incapable of supporting himself, and~~ living with, or legally entitled to be supported by the deceased at the time of her disablement.

16. "Commissioner" means one (1) of the members of the

industrial accident board.

17. "Appointed member of the board" means that member of the industrial accident board appointed by the governor.

18. "Order" shall mean and include any decision, rule, regulation, direction, requirement, or standard of the board, or any other determination arrived at or decision made by such board, excepting general or local orders as herein specified.

19. "Payroll," "annual payroll" or "annual payroll for the preceding year," means the average annual payroll of the employer for the preceding calendar year, or, if the employer shall not have operated a sufficient or any length of time during such calendar year, twelve (12) times the average monthly payroll for the current year; provided, that an estimate may be made by the board for any employer starting in business where no average payrolls are available, such estimate to be adjusted by additional payment by the employer or refund by the board, as the case may actually be on December 31st of such current year.

20. "Year," unless otherwise specified, means calendar year. "Fiscal year" means the period of time between the first day of July and the thirtieth (30th) day of the succeeding June.

21. "Insurer" means any insurance company authorized to transact business in this state insuring any employer under

this act.

22. "Casual employment" means employment not in the usual course of trade, business, profession, or occupation of the employer.

23. The term "physician" shall include "surgeon," and in either case shall mean one authorized by law to practice ~~his~~ that profession in this state.

24. Wherever the singular is used the plural shall be included, and wherever the plural is used the singular shall be included.

25. Wherever the masculine gender is used, the feminine and neuter shall be included.

26. For the purpose of this act "silicosis" is defined as a chronic disease of the lungs caused by the prolonged inhalation of silicon dioxide (SiO_2) characterized by small discrete nodules of fibrous tissue similarly disseminated throughout both lungs, causing characteristic X-ray pattern, and by variable clinical manifestations.

a. For the purpose of this act "pneumoconiosis" is defined as a chronic dust disease of the lung arising out of employment in coal mines, and includes anthracosis, coal workers' pneumoconiosis, silicosis, or anthracosilicosis arising out of such employment.

27. "Workshift" means the work for which an employee is paid a day's wages.

28. "Workmen's Compensation Act" means the Workmen's Compensation Act of the state of Montana."

Section 47. Section 92-1321, R.C.M. 1947, is amended to read as follows:

"92-1321. Compensation benefits payable under this act. The compensation to which an employee temporarily totally disabled or permanently totally disabled by an occupational disease, or ~~his~~ the beneficiaries and dependents of the employee in the case of death caused by an occupational disease, shall be entitled to under this act shall be the same payments which are payable to an injured employee, and such payments shall be made for the same period of time, as is provided in cases of temporary total disability, permanent total disability and in cases of injuries causing death under the Workmen's Compensation Act of the state of Montana. Benefit payments for total disability or death due to pneumoconiosis shall, for the purpose of this act, be made as follows:

a. In the case of total disability of a miner due to pneumoconiosis the disabled miner shall be paid benefits during the disability at the rate of one hundred fifty-five dollars ($155) per month.

b. In the case of death of a miner due to pneumoconiosis or of a miner receiving benefits under this part, benefits shall be paid to ~~his widow~~ the miner's

surviving spouse (if any) at the rate the deceased miner would receive such benefits if ~~he were~~ totally disabled.

c. In the case of an individual entitled to benefit payments under clause a. or b. who has one or more dependents, the benefit payments shall be increased at the rate of fifty per centum (50%) of such benefit payments, if such individual has one (1) dependent, seventy-five per centum (75%) if such individual has two (2) dependents, and one hundred per centum (100%) if such individual has three (3) or more dependents."

Section 48. Section 93-2803, R.C.M. 1947, is amended to read as follows:

"93-2803. When a married ~~woman~~ person is a party -- actions by and against. A married ~~woman~~ person may sue and be sued in the same manner as if ~~she~~ such person were sole."

Section 49. Section 93-2804, R.C.M. 1947, is amended to read as follows:

"93-2804. ~~Wife~~ Spouse may defend, when. If a husband and wife be sued together, ~~the wife~~ each spouse may defend for his or her own right, and if the ~~husband~~ other spouse neglect to defend, ~~she~~ the spouse who does choose to defend may defend for ~~his right also~~ the other spouse's right also."

Section 50. Section 93-2807, R.C.M. 1947, is amended to read as follows:

"93-2807. Unmarried ~~female~~ person may sue for ~~her own~~ seduction. An unmarried ~~female~~ person may prosecute, as plaintiff, an action for his or her own seduction, and may recover therein such damages, pecuniary or exemplary, as are assessed in ~~her~~ such person's favor."

Section 51. Section 93-2808, R.C.M. 1947, is amended to read as follows:

"93-2808. Parent or guardian may sue for seduction of ~~daughter~~ child or ward. ~~A father, or in case of his death or desertion of his family, the mother,~~ Either parent may prosecute as plaintiff for the seduction of the ~~daughter~~ child, and the guardian for the seduction of the ward, though the ~~daughter~~ child or ward be not living with or in the service of the plaintiff at the time of the seduction or afterwards, and there be no loss of service."

Section 52. Section 93-2809, R.C.M. 1947, is amended to read as follows:

"93-2809. Parent or guardian may sue for injury or death of child or ward. ~~A father, or in case of his death or desertion of his family, the mother,~~ Either parent may maintain an action for the injury or death of a minor child, and a guardian for injury or death of ~~his~~ a ward, when such injury or death is caused by the wrongful act or neglect of another. Such action may be maintained against the person causing the injury or death, or if such person be employed

by another person who is responsible for his conduct, also against such other person."

Section 53. Section 93-4207, R.C.M. 1947, is amended to read as follows:

"93-4207. Security upon injunction. On granting an injunction or restraining order, the court or judge may require, except when the state, a county, or any subdivision thereof, or municipal corporation, or a ~~married woman~~ married person in a suit for divorce against ~~her husband~~ his or her spouse, is a party plaintiff, a written undertaking on the part of the plaintiff, with sufficient sureties, to the effect that the plaintiff will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court finally decide that the plaintiff was not entitled thereto. Within five days after the service of the injunction, the defendant may except to the sufficiency of the sureties. If ~~he~~ the plaintiff fails to do so, ~~he~~ such plaintiff is deemed to have waived all objections to them. When excepted to, the plaintiff's sureties, upon notice to the defendant of not less than two nor more than five days, must justify before a judge or clerk in the same manner as upon bail on arrest, and upon failure to justify, or if others in their place fail to justify at the time and place appointed, the order granting an injunction shall be

dissolved."

Section 54. Section 93-4707, R.C.M. 1947, is amended to read as follows:

"93-4707. Judgment for or against married ~~woman~~ person. Judgment for or against a married ~~woman~~ person may be rendered and enforced as if ~~she~~ such person were single."

Section 55. Section 93-5834, R.C.M. 1947, is amended to read as follows:

"93-5834. Real property sold — how redeemed — who are redemptioners. Property sold subject to redemption, as provided by the last section, or any part sold separately, may be redeemed in the manner hereinafter provided, by the following persons, or their successors in interest:

1. The judgment debtor, ~~his wife~~ the judgment debtor's spouse, or his successor in interest, in the whole or any part of the property, and if the judgment debtor or successor be a corporation, then by a stockholder thereof;

2. A creditor having a lien by judgment, mortgage, or attachment on the property sold, or on some share or part thereof, subsequent to that on which the property is sold. If a corporation be such creditor, then any stockholder thereof may redeem. The persons mentioned in the second division of this section are, in this chapter, termed "redemptioners.""

Section 56. Section 93-5836, R.C.M. 1947, is amended

to read as follows:

"93-5836. Redemptioners' rights — manner of redeeming — when purchaser entitled to deed — certificate of redemption — redemption by stockholders — redeeming from ~~wife~~ spouse. (1) If property be so redeemed by a redemptioner, another redemptioner may, within sixty (60) days after the last redemption, again redeem it from the last redemptioner on paying the sum on such last redemption, with interest thereon at the rate of one-half of one per cent (1/2%) per month in addition, and the amount of any assessment or taxes which the last redemptioner may have paid thereon after the redemption by him, with like interest on such amount, and, in addition, the amount of any liens held by the said last redemptioner prior to his own, with interest; but the judgment under which the property was so sold need not be so paid as a lien. The property may be again, and as often as any redemptioner is so disposed, redeemed from any previous redemptioner, within sixty (60) days after the last redemption, on paying the sum paid on the last previous redemption, with interest thereon at the rate of one-half of one per cent (1/2%) per month, and the amount of any assessment or taxes which the last previous redemptioner paid after the redemption by him, with like interest thereon, and the amount of any liens, other than the judgment under which the property was sold, held by the

last redemptioner previous to his own, with like interest.

(2) Written notice of redemption must be given to the sheriff, and a duplicate filed with the county clerk, and if any taxes or assessments are paid by the redemptioner, or if he has or acquired any liens other than that upon which the redemption was made, notice thereof must in like manner be given to the sheriff and filed with the county clerk; and if such notice be not filed, the property may be redeemed without paying such tax, assessments, or lien. If no redemption be made within one year after the sale, the purchaser, or his assignee, is entitled to a conveyance; or, if so redeemed, whenever sixty (60) days have elapsed, and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to a sheriff's deed; but in all cases, the judgment debtor shall have the entire period of one year from the date of the sale to redeem the property. If the judgment debtor or ~~his wife~~ the judgment debtor's spouse redeem, ~~he~~ the judgment debtor or ~~she~~ the spouse must make the same payments as are required to effect a redemption by a redemptioner. If the debtor redeem, the effect of the sale is terminated, and ~~he~~ the debtor is restored to his own estate. If the ~~wife~~ spouse redeem, ~~she~~ such spouse shall become the owner of ~~her husband's~~ the debtor spouse's interest, subject to any liens

thereon at the time of the execution sale. Upon a redemption by a debtor, or ~~his wife~~ the debtor's spouse, the person to whom the payment was made must execute and deliver to him or her a certificate of redemption, acknowledged or proved before an officer authorized to take acknowledgments of conveyances of real property. Such certificate must be filed and recorded in the office of the county clerk of the county in which the property is situated, and the county clerk must note the record thereof in the margin of the record of the certificate of sale.

(3) If a stockholder of a corporation redeems, the corporation, within one (1) year after the date of sale, may redeem by paying to the redemptioner, or the sheriff for his benefit, the amount paid to effect the redemption, with interest thereon at the rate of one-half of one per cent (1/2%) per month from the date of redemption until the date of such payment, together with any taxes or assessments that may have been paid by the redemptioner, with like interest thereon. When a stockholder redeems, any other stockholder or stockholders may, at any time after such redemption, and within sixty (60) days after the expiration of one (1) year from the date of sale, contribute to the redemption by paying to the redeeming stockholder, or depositing with the sheriff for his benefit, a sum which bears the same proportion to the amount necessary to redeem which the

number of shares owned by such contributing stockholder or stockholders bears to the number of shares of such corporation outstanding, with interest on such sum from the date of redemption until the date of contribution at the rate of one-half of one per cent (1/2%) per month, together with a like proportion of the taxes or assessments paid by such redeeming stockholder, with like interest thereon, and if the corporation does not redeem the property within the time and in the manner and form as aforesaid, the said redeeming and contributing stockholders shall be entitled to receive a sheriff's deed for such property so redeemed, and shall succeed to the said property as tenants in common in such proportions, respectively, as they shall respectively pay or contribute to such redemption as aforesaid. The redeeming or contributing stockholder shall, in all cases when applying to redeem or contribute as aforesaid, present an affidavit, setting forth the number of shares of stock owned by him, and to the best of his knowledge, the number of shares of stock of the corporation outstanding.

(4) If the ~~wife~~ spouse of a judgment debtor redeem, the ~~husband~~ judgment debtor, within one year after the date of sale, may redeem by paying the ~~wife~~ spouse or ~~her~~ the spouse's successors in interest or the sheriff for ~~her or their~~ the benefit of the spouse or the successors in interest of the spouse, the amount paid to effect the

redemption, with interest thereon at the rate of one-half of one per cent (1/2%) per month from the date of redemption until the date of such payment, together with any taxes or assessments that may have been paid by the ~~wife~~ spouse or ~~her~~ the successors in interest of the spouse, with like interest thereon."

Section 57. Section 93-6711, R.C.M. 1947, is amended to read as follows:

"93-6711. Service of summons. The summons may be served by a sheriff or constable of any of the counties of this state; provided, that when a summons issued by a justice of the peace is to be served out of the county in which it was issued, the summons shall have attached to it a certificate under seal by the county clerk of the county in which it was issued, to the effect that the person issuing the same was an acting justice of the peace at the date of the summons; or the summons may be served by any ~~male~~ person resident in the state, ~~over the age of~~ eighteen (18) years of age or older, not a party to the suit, and must be served and returned as provided in Montana Rules of Civil Procedure, Rule 4D (2), (3), (4), (8), and (9); or it may be served by publication, provided in Montana Rules of Civil Procedure, Rule 4D (5) and (8), so far as they relate to publication of summons, are made applicable to justices' courts; the word "justice" being substituted for the word

"clerk" whenever the latter word occurs."

Section 58. Section 93-9706, R.C.M. 1947, is amended to read as follows:

"93-9706. Parties defendant. No person other than the tenant of the premises, and subtenant if there be one, in the actual occupation of the premises when the complaint is filed, need be made parties defendant in the proceeding, nor shall any proceeding abate, nor the plaintiff be nonsuited for the nonjoinder of any person who might have been made party defendant; but when it appears that any of the parties served with process, or appearing in the proceeding, is guilty of the offense charged, judgment must be rendered against ~~him~~ such party. In case a defendant has become a subtenant of the premises in controversy, after the service of the notice provided for by part 2 of section 93-9703, upon the tenant of the premises, the fact that such notice was not served on each subtenant shall constitute no defense to the action. ~~In case a married woman be a tenant, or a subtenant, her coverture shall constitute no defense; but in case her husband be not joined, or unless she has separate property, an execution issued upon a personal judgment against her can only be enforced against property on the premises at the commencement of the action, or against her separate property.~~ In case a married person is a tenant or subtenant, failure to join such person's spouse shall

constitute no defense; but in case the spouse is not joined, an execution issued upon a personal judgment against the tenant or subtenant can only be enforced against property on the premises at the commencement of the action or against property that is owned solely by the tenant or subtenant and not by his spouse. All persons who enter the premises under the tenant, after the commencement of the action, shall be bound by the judgment, the same as if he or they had been made party to the action."

Section 59. Section 93-100-2, R.C.M. 1947, is amended to read as follows:

"93-100-2. Application for change of name — how made. All applications for change of names must be made to the district court of the county where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under eighteen (18) years of age, by one of the parents, if living, or if both be dead, then by the guardian; and if there be no guardian, then by some near relative or friend. The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name; and must, if ~~the father~~ neither parent of such person be ~~not~~ living, name as far as known to the petitioner, the near relatives of such person, and their place of residence. Any religious, benevolent, literary,

scientific corporation, or any corporation bearing or having for its name, or using or being known by the name of, any benevolent or charitable order or society, may, by petition, apply to the district court of the county in which its articles of incorporation were originally filed, or in which the property of such corporation is situated, for a change of its corporate name. Such petition must be signed by a majority of the directors or trustees of the corporation, and must specify the date of the formation of the corporation, the name proposed, and the reason for such change of name. Upon filing such petition on behalf of such corporation, the same proceedings shall be made as upon applications for changes of names of natural persons, and no banking corporation hereafter organized shall adopt or use the name of any other banking corporation or association, or of any friendly association."

Section 60. Section 95-609, R.C.M. 1947, is amended to read as follows:

"95-609. Assisting a peace officer. (a) A peace officer making a lawful arrest may command the aid of ~~male~~ persons ~~over the age of~~ eighteen (18) years of age or older.

(b) A person commanded to aid a peace officer shall have the same authority to arrest as that officer.

(c) A person commanded to aid a peace officer in making an arrest shall not be civilly liable for any

reasonable conduct in aid of the officer."

Section 61. There is a new R.C.M. section numbered 12-216 that reads as follows:

12-216. "Man" and "men" to include women. Wherever the word man or men or a word which includes the syllable "man" or "men" in combination with other syllables, such as "workman" appears in this code, such word or syllable shall be deemed to include "woman" or "women" unless the context clearly indicates a contrary intent and unless the subject matter of the statute relates clearly and necessarily to the male sex only.

-End-